ORANGE COUNTY BOARD OF SUPERVISORS

Agenda Revisions and Supplementals

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified. No new supplemental items will be added to the agenda following close of business on Friday.*

December 15, 2020

CONSENT

4. Revised Title to read:
OC Community Recourses - Approve revised Senior Citizens Advisory Council of Orange County Bylaws *renaming Council to Orange County Senior Citizens Advisory Council, changing membership,* updating language consistent with other County boards, commissions and committees, clarifying membership terms, requirements and expectations and other administrative changes - All Districts

DISCUSSION

20. Deleted

34. Revised Title to read:
County Executive Office - Approve recommended positions on introduced or amended legislation and consider other legislative subject matters*; and approve 2021-22 Legislative Platform* - All Districts

37. Revised Title to read:
County Executive Office - Approve grant applications/awards submitted *by OC Community Resources, Sheriff-Coroner, District Attorney and Social Services Agency* in 12/15/20 grant report and other actions as recommended*; adopt resolution authorizing Sheriff-Coroner or designee to accept $40,000 grant funding and execute related documents from California Department of Parks and Recreation, Division of Boating and Waterways for boating safety and enforcement equipment; adopt resolution authorizing District Attorney or designee to execute grant award agreement and amendments with California Department of Insurance for High Impact Insurance Fraud Program, 7/1/20 – 6/30/20 ($275,943); and making California Environmental Quality Act and other findings* - All Districts

THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:

Items: 34 and 37

Supplemental Item(s)

S37A. **Continued to 1/26/21, 9:30 a.m.**
Health Care Agency - Consider first reading of "An Ordinance of the County of Orange, California Amending Sections 4-9-1 through 4-9-17 of the Codified Ordinances of the County of Orange Regarding Ambulance Service", and set second reading and adoption for 1/12/21, 9:30 a.m. - All Districts
(Continued from 12/8/20, Item 22)

S37B. **Supervisor Chaffee** - Senior Citizens Advisory Council - Reappoint Phillip Orland, Brea, for term ending 12/31/21

Document last updated: 12/14/2020 5:01 PM

ORANGE COUNTY BOARD OF SUPERVISORS

Agenda Revisions and Supplementals

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

No new supplemental items will be added to the agenda following close of business on Friday.

S37C. **County Executive Office** - Approve amendment 1 to Option Agreement with Washington Santa Ana Housing, L.P. and Housing Authority of City of Santa Ana for Crossroads at Washington affordable permanent supportive housing project, Santa Ana; authorize Chief Real Estate Officer or designee to execute amendment and make minor modifications and amendments under certain conditions; and make findings pursuant to Resolution 20-008 and Government Code Section 26227 - District 1

S37D. Revised Title to read:
County Executive Office - Approve amendment 4 to agreement with ~~County~~ *Court* Appointed Special Advocates *(CASA)* Orange County for reimbursement of personnel cost to provide victim advocacy and assistance services to dependent youths, extending term to 12/31/21, or until funds are fully exhausted ($100,000; new total $638,740); and authorize County Executive Officer or designee to execute amendment - All Districts

S37E. **Sheriff-Coroner** - Ratify amendment A1 to agreement 20112123 with State of California Commission on Peace Officer Standards and Training (POST) for coroner training courses, 7/1/20 - 6/30/21 (reimbursement $165,076); and authorize Sheriff-Coroner or designee to execute amendment - All Districts

S37F. **Sheriff-Coroner** - Approve agreement MA-060-21010004 with Motorola Solutions, Inc. for purchase of radio equipment and services for Countywide Coordinated Communications System; and authorize County Procurement Officer or authorized Deputy to execute agreement and make minor modifications under certain conditions - All Districts

S37G. **Sheriff-Coroner** - Approve amendment 1 to agreement with City of San Clemente for law enforcement services, 7/1/20 - 6/30/21 - District 5

S37H. **County Executive Office - Acting as the Orange County Flood Control District** - Public Hearing to consider adopting Resolutions of Necessity acquiring by eminent domain real property for Santa Ana River Mainstem/Prado Dam Project located in Riverside and San Bernardino Counties; authorizing County Counsel and/or outside eminent domain counsel to take steps to initiate and facilitate the condemnation action; directing and authorizing Auditor-Controller to make related payments; and considering application of Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report 583 and other findings - All Districts (2/3 vote of membership)

S37I. **Vice Chairman Do and Supervisor Chaffe**e - Adopt resolution proclaiming December 21, 2020 as National Homeless Persons' Memorial Day

S37J. **Supervisor Bartlett** - Coto de Caza Planning Advisory Committee - Reappoint Mike Ameel and Diane Ontko, Coto de Caza, for terms ending 1/31/22

S37K. **Supervisor Wagner** - Foothill/Trabuco Specific Plan Review Board - Appoint Rich Gomez and Michael McClanahan and reappoint Dale Weber, Trabuco Canyon, for terms ending 6/30/22; and reappoint John Reed, Trabuco Canyon, for term ending 6/30/21

Document last updated: 12/14/2020 5:01 PM

ORANGE COUNTY BOARD OF SUPERVISORS

Agenda Revisions and Supplementals

Note: *This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified.*

No new supplemental items will be added to the agenda following close of business on Friday.

S37L. **OC Public Works - Acting as the Board of Supervisors and Orange County Flood Control District -** Retroactively rescind Resolution 15-090 and adopt resolution appointing Director of OC Public Works or designee as Engineer for the Orange County Flood Control District - All Districts

S37M. **Clerk of the Board** - Adopt resolution approving list of recurring Board resolutions for 2021 and authorizing the Chair or other Supervisor to draft and execute said resolutions - All Districts

S37N. **County Executive Office** - Approve and adopt extension of employees' ability to utilize remaining and up to 40 additional hours of Emergency Paid Sick Leave program during COVID – 19 related absences, effective 1/1/21; authorize County Executive Officer or designee to administer continuation of Emergency Paid Sick Leave program through 6/17/21 and administer future Families First Coronavirus Response Act leave extensions or statutorily leave programs - All Districts

SCS1. **County Counsel** – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1)
Name of Case: Campbell v. Don Barnes, Orange County Superior Court case no. 30-2020-01141117 *(2/3 vote of members present)*

SCS2. **County Counsel** – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – INITIATION OF LITIGATION pursuant to Government Code section 54956.9 (d)(4)
Number of Cases: One Case *(2/3 vote of members present)*

SCS3. **County Counsel** – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1)
Name of Case: Delux Public Charter, LLC d/b/a JSX Air and Jetsuitex, Inc. v. County of Orange, et al., United States District Court Central District of California – Southern Division, case no. 8:20-CV-02344
(2/3 vote of members present)

Document last updated: 12/14/2020 5:01 PM

Revision to ASR and/or Attachments

RECEIVED
2020 DEC 10 PM 2:08
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

Date: 12/09/20

To: Clerk of the Board of Supervisors

CC: County Executive Office

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.10 13:50:50 -08'00'

From: **Dylan Wright, Director OC Community Resources**

Re: ASR Control #: 20-001004, Meeting Date 12/15/20 , Item No. # 4

Subject: Approve Revised Senior Citizens Advisory Council Bylaws

---

Explanation:

As a result of feedback received from Clerk of the Board, revisions are required within the revised Senior Citizens Advisory Council Bylaws going to the Board for approval on 12/15/2020.

☐ Revised Recommended Action(s)

N/A

☒ Make modifications to the:

☐ Subject ☒ Background Information ☐ Summary ☐ Financial Impact

In addition to the Bylaw revisions previously noted in the ASR, revisions also include a name change and a change in membership. The Council will now be referred to as "Orange County Senior Citizens Advisory Council." The change in membership includes the removal of the Chairman of the Board of Supervisors' two additional members. The two positions have been added to the Council's Executive Board for a total selection of twenty members instead of eighteen members.

☒ Revised Attachments (attach revised attachment(s) and redlined copy(s))

- Attachment A – Bylaws of the Orange County Senior Citizens Advisory Council
- Attachment B – Bylaws of the Senior Citizens Advisory Council of Orange County - Redline

BYLAWS OF THE
ORANGE COUNTY SENIOR CITIZENS ADVISORY COUNCIL

ARTICLE I - NAME

The name of this organization shall be the Orange County Senior Citizens Advisory Council, referred to hereafter in this document as the "Council."

ARTICLE II – AUTHORITY

The State of California, pursuant to Resolution No. 80-2133 (dated December 23, 1980), and continued in existence pursuant to Resolution No. 90-1153 (dated August 28, 1990), of the Orange County Board of Supervisors, the Older Californians Act and regulations adopted pursuant thereto, and the Older Americans Act and regulations adopted thereto, has designated the County of Orange Board of Supervisors (BOS) as the entity responsible for setting policy, and for the direction and oversight of programs for older adults at the local level and provide funding thereto. To ensure that older adults of Orange County have full opportunity to participate as active members of society for as long as possible; and to advise the Board of Supervisors, the Director, OC Community Services, the Director, Office on Aging, and other agencies and/or authorities on matters related to areas of concern to older adults, including the following:

1. Securing and maintaining maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive services;

2. Removal of individual and social barriers to economic and personal independence for older individuals;

3. Providing a continuum of care for the vulnerable elderly;

4. Ensuring that resources reach Older Americans Act targeted populations.

In furtherance of these objectives, each individual member of the Council may advocate on behalf of all older adults in Orange County, being careful, where necessary, to indicate that any position of advocacy taken is a personal matter and does not represent the Council or the County of Orange.
Federal and State rules and regulations provide for program activities, and requires the Orange County Board of Supervisors, as the Chief Elected Officials for the County of Orange Office on Aging Area, to appoint a local Senior Citizens Advisory Council.

The Council was established by the BOS to serve as the local Senior Citizens Advisory Council on August 14,1973.

ARTICLE III - PURPOSE

The Council shall serve as the principal and official older adult advisory council to the Office on Aging (OoA), designated as Area Agency on Aging (AAA) for the County of Orange; and the Director of the OoA on all matters affecting older adults.

The Council shall serve as an advisory body to the BOS and shall serve as a liaison between the BOS, OCCR, and citizens of the County of Orange (County).

The purpose of the Council shall be to assist the BOS through OCCR, in strategic planning, program oversight and evaluation of the AAA. The Council shall promote effective outcomes consistent with statewide goals, objectives, and negotiated local performance measures.

1. Planning and Implementation

    A. The Council shall advise the OoA and OCCR on all matters relating to the development and administration of the Area Plans required by law and the operations conducted under such plans.

2. Older Adult Needs and Service Identification

    A. The Council shall study, review, evaluate, and inventory services available to the older adults of Orange County from both governmental and nongovernmental sources; shall assess the nature and extent of the unmet needs of older adults of Orange County, and shall make recommendations to the BOS in regard to any and all of these matters.

3. Annual Meetings and Reports

    A. The Council shall arrange and sponsor at least one annual meeting of advocates for older adults, County members of the California Senior Legislature (CSL), agencies, providers, and organizations of the aging network on priorities for the ensuing year, and make recommendations to the County CSL members in accordance with county policies and procedures.

4. Contract Monitoring

    A. The Council may participate in the annual monitoring of OoA contractors, in order that the Council may evaluate the effectiveness of the various OoA funded programs and services and assess the performance of the contractors. Council participation is subject to all conflict of interest policies.

    B. The Council pay be invited to participate on independent review panels for contract solicitation of OoA programs and services. Council participation is subject to all conflict of interest policies.

ARTICLE IV – MEMBERSHIP

The Council shall consist of no more than forty (40) members hereafter referred to as “Council members” to be selected as follows:

1. Up to ten (10) to be selected by the BOS for two-year terms.

    A. Council members shall be appointed by the BOS with each Supervisor nominating two Council members from inside or outside of their respective district. No person

living outside of the Supervisor's District shall be nominated for appointment to the Council without the written consent of the Supervisor representing the district where the nominee resides.

2. Up to ten (10) to be selected by the City Selection Committee, for two-year terms.

    A. Council members shall be appointed by cities in a process coordinated by the City Selection Committee and the County Clerk of the Board, with the objective of having two appointees from the cities in each of the five supervisorial districts. The City Selection Committee may waive any residency and voter requirements.

3. Up to twenty (20) to be selected for two-year terms by a quorum of the Council's Executive Board from nominees submitted by the Council, as well as other governmental commissions or councils, nongovernmental groups, service providers or the public at large. The Council shall utilize its twenty appointments to assure conformance with mandated membership requirements of AAA Advisory Councils, as required by federal and state statutes and regulations.

    A. Council appointed membership will be initiated by submittal to the OoA of the "Application for Membership" form completed by the individual applicant. Prospective members shall attend one Council meeting and one standing committee meeting before being considered by the Executive Board. The information regarding the applicant's interest, qualifications, memberships, and affiliations will be reviewed by the Executive Board. Upon appointment to the Council, new members shall sign the Council Code of Ethics.

4. Council members shall be broadly representative of different racial, ethnic, religious, socio-economic, disability, age, gender, sexual orientation, or marital status groups in the County.

TERM OF MEMBERSHIP

Council members shall be appointed for a term of two years and shall start as of January 1 and end on December 31. Appointments made to fill a vacancy left by a member before the expiration of the term of that member shall be for the remaining term of that member. All members appointed by the BOS and by the City Selection Committee shall serve at the pleasure of the appointing body. Service beyond a two-year term shall be considered by the appointing authority at the end of each two-year term. A member who has not been reappointed or replaced at the termination date of appointment may serve as a member until reappointed or replaced unless the authority that appointed the member rules otherwise.

COUNCIL MEMBERSHIP ELIGIBILITY, REQUIREMENTS AND RESPONSIBILITIES

1. Eligibility

    A. All members of the Council shall be residents of Orange County unless they are employed full time in Orange County in work connected with Orange County's older adult services network.

B. The majority (50% +1) of the membership shall be over sixty (60) years of age and include ethnic minority representatives.

C. The Council shall include representatives of service providers.

D. The Council shall represent all older individuals in Orange County with a special emphasis on those in greatest economic and social need.

E. The Council shall permanently reserve one of its appointment positions for the representative of the Social Security Administration.

F. The Council shall include representatives of unpaid family caregivers.

2. Requirements

A. Each Council member shall annually sign a statement indicating awareness of and compliance with the County of Orange Conflict of Interest Policy.

B. Each Council member shall dedicate a minimum eight hours per month, which shall including activities related to meetings of the full Council as well as standing committee obligations. Hours shall be reported on the “Monthly Senior Services” form.

C. Each Council member must have access to transportation to Council meetings and standing committee meetings.

D. Each Council member must have access to a computer and have an e-mail address or have an alternative means of communication.

E. Each Council member shall actively pursue an understanding of the Older Americans Act.

F. Each Council member shall be a member in good standing of at least one standing committee.

3. Responsibilities

A. Council members must comply with County non-discrimination and zero tolerance sexual harassment policies and County Code of Ethics.

B. Council members shall operate strictly within designated Council purposes.

C. Each individual Council member shall comply with all applicable conflict of interest laws. A “conflict of interest” exists when a Council member has a personal or private relationship or interest that could diminish the Council member’s independence of judgement in performing official duties, and as defined by law. Examples include a Council member’s interest in an entity that is seeking to obtain the County’s sponsorship, including non-financial, such as the use of the County seal.

D. A Council member having a conflict of interest concerning any issue before the Council, must declare the nature of their conflict of interest, avoid participating in or influencing the matter in any way.

COUNCIL MEMBER RECRUITMENT AND NOMINATIONS

1. In the event of a vacancy, the Council's Executive Director in partnership with Council's Executive Committee is responsible for maintaining the required composition of the Council. A vacancy may not necessarily be filled if the required composition of the Council can be maintained without filling the vacancy. The BOS appointees shall be accepted.

2. The Council shall solicit and accept nominations for Council membership in accordance with membership composition requirements set forth in these bylaws, as needed.

3. All nominees shall be required to submit a membership application.

4. Other than those Council members appointed directly by the BOS, any qualified community member may nominate him/herself for appointment to the Council by submitting a membership application to the Council's Executive Director.

5. Other than those appointed directly by the BOS, nominations shall be reviewed by the Council and Executive Director to ensure that nominees meet membership criteria as stated in these bylaws.

COUNCIL MEMBER VACANCIES

1. A vacancy on the Council shall exist on the occurrence of noncompliance with applicable Federal and State regulations or change in employment status from active employment in the classification that served as the basis for the appointment or other change in membership category, change in residency outside of Orange County, failure to complete ethics training, or failure to attend four meetings in a calendar year.

2. Vacancies will not necessarily be filled by individuals from a like organization; industry, employer, or association so long as the required membership composition is maintained, which will be officially determined by OCCR.

COUNCIL MEMBER RESIGNATION

1. Any member may resign by providing written notice to the Council's Executive Director.

2. The Council's Executive Director shall provide written notice of all resignations to the Council and BOS.

3. A member shall be deemed to have resigned Council membership if the Council member is absent from three Regular Meetings per program year.

COUNCIL MEMBER REMOVAL

1. A Council member may be removed from the Council by the Executive Board Chair and Executive Director, or the appointing authority, with or without cause at any time, with the exception of those directly appointed by the BOS.

SIZE AND SELECTION OF COMMITTEE MEMBERS

1. Members of the committees as covered in Article VI of these Bylaws are also included as Special (non-voting) Members of the Council if not already members as provided for in "Membership Eligibility, Requirements, and Responsibilities." This is to ensure that the entire community of Orange County is fully represented on all levels of activity of the Council.

ATTENDANCE

1. Any member of the Council who fails to attend three regular meetings within a calendar year shall automatically vacate his or her position.

2. All Council members bring valuable experience and a unique perspective to the discussions and decisions of the council. Participation by all Council members is valued, important, and necessary as this Council advocates for and works on behalf of the Senior Citizens of Orange County. If a member of the Council missed three regular meetings within a calendar year, a letter may be sent to alert them that upon the fourth absence their seat will be vacated.

VACANCIES

1. In the event of a vacancy or removal from membership, the Council shall request the appointment of a replacement by the appropriate appointing body to serve the unexpired term of the former incumbent of the seat.

MEMBERSHIP APPEALS

1. In the event that an individual is removed from their Committee or Council Membership, an appeal may be made in writing to and shall be heard by the Executive Board at its discretion. The decision of the Executive Board is final.

COUNCIL REMUNERATION

1. Each Council member shall be eligible to receive a sum of thirty dollars ($30) for attendance at a Council meeting, subject to a maximum reimbursement for one such meeting per month. Council members may opt to waive remuneration. Attendance of less than one-half of a regular meeting shall be considered an absence and not subject to remuneration.

REIMBURSEMENT

1. Council members may be reimbursed for actual expenses incurred while performing within the scope of their duties and powers only with prior approval of the OoA Executive Director. All requests for reimbursement shall be submitted in accordance with the policies and procedures adopted by the County on a form prepared by the Auditor-Controller.

ARTICLE V – MEETINGS

1. Council meetings shall be held in accordance with the Ralph M. Brown Act (the "Brown Act"), Government Code Section 54950 et. Seq., as amended.

2. The Council shall hold regular monthly meetings, as scheduled by the Executive Director in coordination with OCCR.

3. Written notice of regular Council meetings will be mailed or emailed out, and publicly posted for any person who previously requested notice 72 hours prior to the meeting.

4. Council meetings shall be held at a location within Orange County, California, determined by OCCR that satisfies the access requirements of the American with Disabilities Act.
5. Council regular meetings shall be held during regular business hours.

6. A special meeting of the Council may be called by the Chair, the Executive Board or by a quorum of the Council. Notice on special meetings shall be delivered to the Council members personally, by mail or electronically, and must be received no later than twenty-four hours in advance of the meeting. Written notice of such meetings must be provided to any person who has previously requested notice.

OCCR ADMINISTRATIVE SUPPORT (OCCR Support)

1. OCCR shall provide administrative support (OCCR Support) to the Council as directed by the Executive Director. OCCR Support shall include, but not be limited, to the following:

    A. Attendance at Meetings

    A representative designated by the OCCR, shall attend each meeting, and maintain a record of all proceedings and directives of the Council. OCCR Support will call agenda items or groups of items.

    B. Preparation and Distribution of Agenda

    i. OCCR Support will prepare, publicly post and distribute all agendas of the Council meetings. The agenda shall consist of a brief general description of each item to be considered by the Council, pursuant to the Ralph M. Brown Act, Government Code section 54950 et seq.

    ii. OCCR Support will prepare, publicly post, and distribute all supplemental agendas when there has been an item added, continued, deleted, and/or modified since the distribution of the initial agenda.

    iii. The regular OCWDB meeting agenda will be distributed and made available to the public at least 72 hours prior to the meeting, pursuant to the Ralph M. Brown Act, Government Code section 54950 et seq.

    iv. OCCR staff will audiotape meetings, and tape will act as official meeting record.

QUORUM

1. A Council meeting quorum shall consist of a majority of Council members (50% + 1). A Committee meeting quorum shall consist of more than 25% of the members of that committee (25% + 1). No business shall be transacted without a quorum present. Each Council member shall have one vote. All Council actions and recommendations shall be by motion, duly seconded, and carried by an affirmative vote of a majority of Council members present.

ARTICLE VI – EXECUTIVE BOARD

OFFICERS

1. The officer(s) of the Executive Board shall be elected by the Council. They shall be a Chair, Vice Chair, Secretary and three members at large and duties will be designated by the Chair. Member-at- Large members of the Council's Executive Board are not considered to be Council officers.

    A. Should the current Chair and Immediate Past Chair be one and the same, or if the Immediate Past Chair cannot serve as a member of the Executive Board for any reason, a fourth Member-at-Large Council member shall be elected by the Council. Past Chairs, other than the Immediate Past Chair, shall be granted status as an honorary member of the Executive Board without the power of vote as long as they remain members of the Council.

    B. Responsibilities of the Executive Board shall be to liaise with the Board of Supervisors, the City Selection Committee, the California Commission on Aging, the Office on Aging, the Triple A Council of California, senior centers, nutritional sites, and, when necessary, legal counsel involved with Council matters.

ELECTION AND TERMS

1. Election of officers shall be held every two years during the regular January meeting of the Council. All officers shall be elected for a term of two (2) years and shall serve until their successors are elected. They shall begin their terms of office at the close of the January meeting at which they are elected.

EXECUTIVE BOARD REMOVAL AND RESIGNATION

1. Any officer may be removed from office by a two-thirds (2/3) vote of the total Council membership. Any such officer shall be removed should that officer cease to be qualified for the office as provided in these Bylaws or cease to be a member of the Council for any reason. Any officer may resign at any time by giving written notice to the Council. Any such resignation shall become effective on the date identified in the letter of resignation unless otherwise specified; the acceptance of such resignation shall not be required to make it effective.

EXECUTIVE BOARD VACANCIES

1. A vacancy on the Executive Board in any office caused by death, resignation, removal from classification, disqualification, or otherwise, shall be filled by election by the members of the Council for the unexpired portion of the term of said officer.

DUTIES

1. The Chair shall:

    A. Preside over all regular and special meetings.

    B. Act as an ex officio member on all committees.

C. Establish committees and coordinate the appointment of Council members thereto and to the Nominating Committee.
D. Represent the Council at, or designate a representative to attend, public functions, provided such functions have been approved by the Council and are consistent with County policy.

E. Perform all other responsibilities allocated to the Chair under these bylaws.

2. The Vice-Chair shall:

A. Assume the duties of the Chair when the Chair is absent or unable to perform the duties of the Chair.

B. Perform all other responsibilities allocated to the Vice-Chair under these bylaws.

3. The Secretary shall:

A. Take roll of Council members at each Council meeting and advise the chair as to the existence of a quorum.

B. Collect "Monthly Senior Service Hours" from members, post and tabulate total hours.

ABSENCE OF CHAIR AND VICE CHAIR

1. In the event of the absence of the chair and vice chair, a chair pro-tempore shall preside at the meeting. The secretary, with a quorum present, shall call the meeting to order and preside during such election of a chair pro-tempore. The secretary shall immediately relinquish the chair upon completion of the election.

ARTICLE VII – COMMITTEES

1. All standing committees established under the Council shall conform to the bylaws of the full Council. All actions of Council standing committees and workgroups are advisory to the Council. Chairs of the Council standing committees, in consultation with the Council and the Executive Director, shall prepare the agenda for standing committee meetings.

2. All committees shall follow the general operating procedures and rules, which govern the Council membership. Any recommended deviation from this section must be approved by the Executive Board and/or the Council.

3. The Chair, Vice Chair and the OoA Director shall be ex-officio members of all committees, except as otherwise noted in these Bylaws.

STANDING COMMITTEES

1. The Executive Board shall annually assess standing committee activities, committee membership composition, committee effectiveness, and the relationship of committees to each other to determine if committees should be retained, merged, altered, or dissolved.

2. The Executive Board shall solicit and consider the analysis and comments of the OoA Director regarding the effectiveness of each committee at such time as the Executive Board reviews the annual report of the committee.

3. To the extent possible, standing committees shall be comprised of the required Council representative categories and must be chaired by a member of the Council.

4. The term of the Chair of any standing committee shall be for two (2) calendar years, concurrent with the term of the Chair of the Council.

5. The Committee Chair shall be appointed by the Executive Board Chair. Council members will volunteer to be on the standing committees and will be recommended by the Executive Board Chair. In such case that membership is not met for the committees, the Executive Board Chair will appoint members accordingly.

6. The Council may maintain a structure of standing committees limited in number to long-range activities required to carry out the functions of the Council and Area Plan of the OoA. The Executive Board of the Council shall recommend to the Council the standing committees to be in operation as well as the purpose, composition and structure of such committees.

7. Membership on at least one standing committee is mandatory for all Council members.

8. Standing committees shall be composed of members of the Council and may include public members and professionals with experience and/or training in areas stated in the purpose of the committee. All standing committee members shall be approved by the Executive Board.

9. Standing committees shall have no more than one chairperson.

10. Members of the Executive Board shall not serve as chair or vice-chair of any standing committee.

11. Meetings of standing committees shall be open to the public and shall be conducted in accordance with the Ralph M. Brown Act. Notice of meetings of standing committees shall be given in accordance with the Ralph M. Brown Act.

12. Each standing committee may appoint ad-hoc subcommittees and task forces as may, in the committee's judgment, be required to cover a prime area of interest requiring detailed attention, development or support. Subcommittees and task forces shall be comprised solely of members of the standing committee totaling less than a quorum of the standing committee. Subcommittees and task forces shall dissolve upon conclusion of the assigned task.

13. In the event a standing committee is without a chair, the chair of the Council may appoint a convener for the committee until a committee chair is nominated by majority of the members of the committee and approved by the Council.
14. Standing committee chairs shall report committee, subcommittee and task force activities to the Council and Executive Board when scheduled or requested to do so.

15. Standing Committee Chairs shall submit a monthly written report one week prior to the monthly meeting of the full SCAC council.
16. Standing Committee Chairs are welcomed to attend all Executive Board meetings and shall attend January, March and September Executive Board meetings.

AD-HOC COMMITTEES

1. The Chairperson of the Council may establish ad hoc committees to accomplish time-limited tasks that support the goals of the Council. Each ad hoc committee shall be composed of less than the quorum of the Council members and shall only serve as an advisory committee on a specific item for a limited period. When an ad hoc committee is created, the Chair or Council member calling for the creation of ad-hoc committee shall identify the committee's membership, the scope of work, work product, and date of dissolution.

2. When appropriate, committees may call on other knowledgeable individuals who are not Council members to act as consultants to the committees. Said individuals shall be subject to the conflict of interest statutes, regulations, and ordinances.

3. The Committee chair shall be appointed by the Board chair. Council members will volunteer to be on the committee and will be recommended by the Board chair. In such case that membership is not met for each committee, the Board chair will appoint members accordingly.

EX-OFFICIO MEMBERS

1. The Chair, Vice Chair and the OoA Director shall be ex-officio members of all committees, except as otherwise noted in these Bylaws.

NOMINATING COMMITTEE

1. The Chair shall appoint a Nominating Committee in October of the even numbered years, consisting of not less than three members of the Council. Executive Board members shall not participate in nominating committee meetings. The Nominating Committee shall appoint a committee chair; select a slate of officers for the following fiscal year, secure the consent of those nominated, and present the slate of candidates at the January meeting of the Council. Additional nominations for any office may be made from the floor by members at the January Council meeting.

GENERAL PROCEDURES FOR COMMITTEES

1. All committees shall follow the general operating procedures and rules, which govern the Council membership. Any recommended deviation from this section must be approved by the Executive Board and/or the Council.

ANNUAL STANDING COMMITTEE EVALUATION

1. Intent

    A. The Executive Board shall annually assess standing committee activities, committee membership composition, committee effectiveness, and the relationship of committees

to each other to determine if committees should be retained, merged, altered, or dissolved.

2. Annual Committee Reports

   A. As part of the above-described annual review process, the officers of each committee shall annually, on a schedule adopted by the Executive Board, submit a summarized written report to the Executive Board identifying the committee's activities during the previous year and other information as the Council, by its Bylaws or otherwise, may specify.

3. OoA Director Analysis

   A. The Executive Board shall solicit and consider the analysis and comments of the OoA Director regarding the effectiveness of each committee at such time as the Executive Board reviews the annual report of the committee.

4. Staff Support to Council Committees

   A. Subject to budgetary capabilities, the Director of the Office on Aging may provide clerical and technical assistance to the committees of the Council, with the officers of the committees responsible for all administrative duties related to committee operation.

ARTICLE VIII – OVERSIGHT AND STAFFING SUPPORT

1. The Council is programmatically responsible to the BOS, through the OCCR.

2. The Council shall have no authority to accept gifts or donations on behalf of the County unless done in accordance with the OCCR's Board approved Marketing Plan and County gifts or donation policies.

3. Each Council member shall attend annual trainings as determined by the OCCR, OCCR and/or the BOS including, but not limited to, trainings relating to ethics and conflicts of interest.

ARTICLE IX – ADVOCACY

1. The Council website shall be hosted on the OCCR domain and managed by OCCR.

2. The County must approve all Council correspondence, statements, press releases, and reports prior to release. A 50+ 1 majority of the quorum of the Council must approve all such correspondence, statements, press releases, and reports prior to the Council's submittal of any such items to OCCR and request for the County's approval of such items.

3. All Council communications shall be preapproved by OCCR and be on OCCR and Council letterhead.

4. The Council's recommendations on legislation must be approved by the majority vote of a quorum of the Council and submitted to the County Executive Office legislative planning

committee for recommendation to the County through OCCR. The Council shall not take positions on legislation without the approval of the County.

5. All use of the County and Council emblem/seal requires pre-approval of the County through OCCR.

6. Neither the Council nor any of its Council members shall promote, directly or indirectly, any political party, political candidate or political activity using the name, emblem, or any other identifier of the Council or County of Orange logo.

ARTICLE X - BYLAWS

ADOPTION OF BYLAWS

1. The Bylaws shall become effective immediately upon approval of the BOS.

AMENDMENTS TO BYLAWS

1. A recommendations to amend the Bylaws, approved by a majority vote of the members of the Council shall submitted by OCCR to the BOS for approval. However, such an amendment will not take effect unless approved by the BOS. The

ARTICLE XI – SEVERABILITY

1. If any provision of these bylaws is determined to be invalid or unenforceable, that provision shall be deemed stricken and the remainder of these bylaws shall continue in full force and effect.

ARTICLE XII – PARLIAMENTARY AUTHORITY

RULES

1. Robert's Rules of Order, Revised, when not in conflict with the statutes of the United States or the State of California; and the Rules and Regulations of the Orange County Board of Supervisors, shall be the Rules of Procedure of the meetings of the Council except that all actions of the Council shall pass by a simple majority vote of Council members unless specifically provided for elsewhere in these Bylaws.

STANDING RULES

1. The Council shall adopt standing rules of operations providing they do not conflict with these Bylaws.

ARTICLE XIII – EXISTENCE OF COUNCIL

1. The Council shall continue to exist indefinitely, subject to the requirements of the law and Board policy.

Adopted by Board of Supervisors on _____

~~SENIOR CITIZENS ADVISORY COUNCIL OF ORANGE COUNTY – BYLAWS~~BYLAWS OF THE

ORANGE COUNTY SENIOR CITIZENS ADVISORY COUNCIL

~~5-08-81 (SCAC)~~
~~3-18-82 (CoCo)~~
~~8-14-84 (SCAC)~~
~~Revised & Adopted 8-28-90 (BOS)~~
~~2-13-92 (SCAC)~~
~~Revised & Adopted 3-12-99 (SCAC)~~
~~Revised & Adopted 5-11-99 (BOS)~~
~~Revised & Adopted 10-23-01 (BOS)~~
~~Revised & Adopted 6-9-06 (SCAC)~~
~~Revised & Adopted 12-19-06 (BOS)~~
~~Revised & Adopted 11-06-07 (BOS)~~
~~Revised & Adopted 10-07-08 (BOS)~~
~~Revised & Adopted 1-15-13 (BOS)~~

~~ARTICLE I~~

~~COUNCIL NAME AND PURPOSE~~

~~SECTION 1: NAME~~ARTICLE I - NAME

The name of this organization shall be the Orange County Senior Citizens Advisory Council ~~of Orange County~~, referred to hereafter in this document as ~~hereinafter called~~ the "Council."

~~SECTION 2: PURPOSE~~ARTICLE II – AUTHORITY

The State of California,~~This Council was formed~~ pursuant to Resolution No. 80-2133 (dated December 23, 1980), and continued in existence pursuant to Resolution No. 90-1153 (dated August 28, 1990), of the Orange County Board of Supervisors, the Older Californians Act and regulations adopted pursuant thereto, and the Older Americans Act and regulations adopted thereto, has designated the County of Orange Board of Supervisors (BOS) as the entity responsible for setting policy, and for the direction and oversight of programs for older adults at the local level and provide funding thereto. T~~t~~o ensure that older adults of Orange County have full opportunity to participate as active members of society for as long as possible; and to advise the Board of Supervisors, the Director, OC Community Services, the Director, Office on Aging, and other agencies and/or authorities on matters related to areas of concern to older adults, including the following:

1. Securing and maintaining maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive services;

~~A.~~

2. Removal of individual and social barriers to economic and personal independence for older individuals;

~~B.~~

3. Providing a continuum of care for the vulnerable elderly;

~~C.~~

~~D.~~4. Ensuring that resources reach Older Americans Act targeted populations.

In furtherance of these objectives, each individual member of the Council may advocate on behalf of all older adults in Orange County, being careful, where necessary, to indicate that any position of advocacy taken is a personal matter and does not represent the Council or the County of Orange.

Federal and State rules and regulations provide for program activities, and requires the Orange County Board of Supervisors, as the Chief Elected Officials for the County of Orange Office on Aging Area, to appoint a local Senior Citizens Advisory Council.

The Council was established by the BOS to serve as the local Senior Citizens Advisory Council on August 14,1973.

~~**ARTICLE II**~~
~~**FUNCTIONS (POWERS AND DUTIES)**~~

~~**SECTION 1: FUNCTIONS**~~**ARTICLE III - PURPOSE**

The Council shall serve as the principal and official older adult advisory council to the Office on Aging (OoA), designated as Area Agency on Aging (AAA) for the County of Orange; ~~OC Community Services(OCCS),~~ and the Director of the OoA on all matters affecting older adults.

The Council shall serve as an advisory body to the BOS and shall serve as a liaison between the BOS, OCCR, and citizens of the County of Orange (County).

The purpose of the Council shall be to assist the BOS through OCCR, in strategic planning, program oversight and evaluation of the AAA. The Council shall promote effective outcomes consistent with statewide goals, objectives, and negotiated local performance measures.

1. Planning and Implementation

~~A.~~

~~A.~~ The Council shall advise the OoA and OCCR~~S~~ on all matters relating to the development and administration of the Area Plans required by law and the operations conducted under such plans.

A.

2. Older Adult Needs and Service Identification

~~B.~~

~~A.~~ The Council shall study, review, evaluate, and inventory services available to the older adults of Orange County from both governmental and nongovernmental sources; shall assess the nature and extent of the unmet needs of older adults of Orange County, and shall make recommendations to the ~~Board of Supervisors~~BOS in regard to any and all of these matters.

A.

3. Annual Meetings and Reports

~~C.~~

~~A.~~ The Council shall arrange and sponsor at least one annual meeting of advocates for older adults, County members of the California Senior Legislature (CSL), agencies, providers, and organizations of the aging network on priorities for the ensuing year, and make recommendations to the County CSL members in accordance with county policies and procedures.

A.

4. Contract Monitoring

~~D. Contract Monitoring~~

A. The Council may participate in the annual monitoring of OoA contractors, in order that the Council may evaluate the effectiveness of the various OoA funded programs and services and assess the performance of the contractors. Council participation is subject to all conflict of interest policies.

B. The Council pay be invited to participate on independent review panels for contract solicitation of OoA programs and services. Council participation is subject to all conflict of interest policies.

~~Council participation shall be subject to all conflict of interest policies.~~

~~ARTICLE III~~
~~MEMBERSHIP~~
~~SECTION 1: NUMBER AND SELECTION OF COUNCIL MEMBERS~~ARTICLE IV – MEMBERSHIP

The Council ~~membership~~ shall consist of no more than forty (40) ~~persons~~ members hereafter referred to as "Council members" to be selected as follows:

1. Up to t~~T~~en (10) to be selected by the ~~Board of Supervisors~~BOS for two~~-~~year terms. ~~and two additional members will be selected by the Chairman of the Board of Supervisors for one year terms.~~

   A. Council members shall be appointed by the BOS with each Supervisor nominating two Council members from inside or outside of their respective district. No person living outside of the Supervisor's District shall be nominated for appointment to the Council without the written consent of the Supervisor representing the district where the nominee resides.

~~A.~~

2. Up to t~~T~~en (10) to be selected by the City Selection Committee, for two~~-~~year terms.

~~B.~~

   A. Council members shall be appointed by cities in a process coordinated by the City Selection Committee and the County Clerk of the Board, with the objective of having two appointees from the cities in each of the five supervisorial districts. The City Selection Committee may waive any residency and voter requirements.

~~C. Eighteen (18) to be selected for two year terms by a quorum of the Council from nominees submitted by the Council, as well as other governmental commissions or councils, nongovernmental groups, service providers or the public at large. The Council shall utilize its eighteen appointments to assure conformance with mandated membership requirements of AAA Advisory Councils, as required by federal and state statutes and regulations.~~

3. Up to twenty (20) to be selected for two-year terms by a quorum of the Council's Executive Board from nominees submitted by the Council, as well as other governmental commissions or councils, nongovernmental groups, service providers or the public at large. The Council shall utilize its twenty appointments to assure conformance with mandated membership requirements of AAA Advisory Councils, as required by federal and state statutes and regulations.

    A. Council appointed membership will be initiated by submittal to the OoA of the "Application for Membership" form completed by the individual applicant. Prospective members shall attend one Council meeting and one standing committee meeting before being considered by the Executive Board. The information regarding the applicant's interest, qualifications, memberships, and affiliations will be reviewed by the Executive Board. Upon appointment to the Council, new members shall sign the Council Code of Ethics.

4. Council members shall be broadly representative of different racial, ethnic, religious, socio-economic, disability, age, gender, sexual orientation, or marital status groups in the County.

~~SECTION 2: MEMBERSHIP APPLICATION~~

~~Council membership will be initiated by submittal to the Office on Aging of the "Application for Membership" form completed by the individual applicant. Prospective members shall attend one Council meeting and one committee meeting before being considered by the Executive Board. The information regarding the applicant's interest, qualifications, memberships, and affiliations will be reviewed by the Executive Board. Upon appointment to the Council, new members shall sign the Council Code of Ethics.~~

~~SECTION 3:~~ TERM OF MEMBERSHIP

Council ~~All~~ members shall be appointed for a term of two years and shall start as of January 1 and end on December 31.~~rm~~ Appointments made to fill a vacancy left by a member before the expiration of the term of that member shall be for the remaining term of that member. ~~of two (2) years, except that the two appointments by the Chair of the Board of Supervisors shall be for a term of one (1) year. All regular appointments shall start as of January 1 and end on December 31. Appointments made to fill a vacancy left by a member before the expiration of the term of that member shall be for the remaining term of that member.~~ All members appointed by the ~~Board of Supervisors~~BOS and by the City Selection Committee shall serve at the pleasure of the appointing body. Service beyond a two-year term shall be considered by the appointing authority at the end of each two-year term. A member who has not been reappointed or replaced at the termination date of appointment may serve as a member until reappointed or replaced unless the authority that appointed the member rules otherwise.

~~SECTION 4: MEMBERSHIP ELIGIBILITY AND REQUIREMENTS~~COUNCIL MEMBERSHIP ELIGIBILITY, REQUIREMENTS AND RESPONSIBILITIES

1. Eligibility

~~A.~~

A. All members of the Council shall be residents of Orange County unless they are employed full time in Orange County in work connected with Orange County's older adult services network.

~~1.~~

B. The majority (50% +1) of the membership shall be over sixty (60) years of age and include ethnic minority representatives.

~~2.~~

C. The Council shall include representatives of service providers.

~~3.~~

D. The Council shall represent all older individuals in Orange County with a special emphasis on those in greatest economic and social need.

~~4.~~

E. The Council shall permanently reserve one of its appointment positions for the representative of the Social Security Administration.

~~5.~~

F. The Council shall include representatives of unpaid family caregivers.

~~6.~~

2. Requirements

~~B.~~

A. Each Council member shall annually sign a statement indicating awareness of and compliance with the County of Orange Conflict of Interest Policy.

~~1.~~

B. Each Council member shall dedicate a minimum ~~maintain an availability of~~ eight hours per month, which shall including activities related to meetings of the full Council as well as standing committee obligations. Hours shall be reported on the "Monthly Senior Services" form.

~~2.~~

C. Each Council member must have access to transportation to Council meetings and standing committee meetings.

~~3.~~

D. Each Council member must have access to a computer and have an e-mail address ~~,~~ or have an alternative means of communication.

~~4.~~

E. Each Council member shall actively pursue an understanding of the Older Americans Act.

F. Each Council member shall be a member in good standing of at least one standing committee.

3. Responsibilities

A. Council members must comply with County non-discrimination and zero tolerance sexual harassment policies and County Code of Ethics.

B. Council members shall operate strictly within designated Council purposes.

~~5.~~

C. Each individual Council member shall comply with all applicable conflict of interest laws. A "conflict of interest" exists when a Council member has a personal or private relationship or interest that could diminish the Council member's independence of judgement in performing official duties, and as defined by law. Examples include a Council member's interest in an entity that is seeking to obtain the County's sponsorship, including non-financial, such as the use of the County seal.

D. A Council member having a conflict of interest concerning any issue before the Council, must declare the nature of their conflict of interest, avoid participating in or influencing the matter in any way.

~~SECTION 5: SIZE AND SELECTION OF COMMITTEE MEMBERS~~COUNCIL MEMBER RECRUITMENT AND NOMINATIONS

~~Members of the committees as covered in Article VI of these Bylaws are also included as Special (non-voting) Members of the Council if not already members as provided for in Section 1 and 2 of this Article. This is to insure that the entire community of Orange County is fully represented on all levels of activity of the Council.~~

1. In the event of a vacancy, the Council's Executive Director in partnership with Council's Executive Committee is responsible for maintaining the required composition of the Council. A vacancy may not necessarily be filled if the required composition of the Council can be maintained without filling the vacancy. The BOS appointees shall be accepted.

2. The Council shall solicit and accept nominations for Council membership in accordance with membership composition requirements set forth in these bylaws, as needed.

3. All nominees shall be required to submit a membership application.

4. Other than those Council members appointed directly by the BOS, any qualified community member may nominate him/herself for appointment to the Council by submitting a membership application to the Council's Executive Director.

5. Other than those appointed directly by the BOS, nominations shall be reviewed by the Council and Executive Director to ensure that nominees meet membership criteria as stated in these bylaws.

~~SECTION 6: VOTING~~COUNCIL MEMBER VACANCIES

~~Each Council member shall have one (1) vote upon all matters before the Council.~~

1. A vacancy on the Council shall exist on the occurrence of noncompliance with applicable Federal and State regulations or change in employment status from active employment in the classification that served as the basis for the appointment or other change in membership category, change in residency outside of Orange County, failure to complete ethics training, or failure to attend four meetings in a calendar year.

2. Vacancies will not necessarily be filled by individuals from a like organization; industry, employer, or association so long as the required membership composition is maintained, which will be officially determined by OCCR.

COUNCIL MEMBER RESIGNATION

1. Any member may resign by providing written notice to the Council's Executive Director.

2. The Council's Executive Director shall provide written notice of all resignations to the Council and BOS.

3. A member shall be deemed to have resigned Council membership if the Council member is absent from three Regular Meetings per program year.

COUNCIL MEMBER REMOVAL

1. A Council member may be removed from the Council by the Executive Board Chair and Executive Director, or the appointing authority, with or without cause at any time, with the exception of those directly appointed by the BOS.

SIZE AND SELECTION OF COMMITTEE MEMBERS

1. Members of the committees as covered in Article VI of these Bylaws are also included as Special (non-voting) Members of the Council if not already members as provided for in "Membership Eligibility, Requirements, and Responsibilities." This is to ensure that the entire community of Orange County is fully represented on all levels of activity of the Council.

~~SECTION 7:~~ ATTENDANCE

1. Any member of the Council who fails to attend three regular meetings within a calendar year ~~without previous notice or excuse~~ shall automatically vacate his or her position.

2. All Council members bring valuable experience and a unique perspective to the discussions and decisions of the council. Participation by all Council members is valued, important, and necessary as this Council advocates for and works on behalf of the Senior Citizens of Orange County. If a member of the Council missed three regular meetings within a calendar year, a letter may be sent to alert them that upon the fourth absence their seat will be vacated.

~~A Council member who will be absent from a meeting may serve notice of the anticipated absence and request to be excused from the meeting in the following manner:~~

~~a. Notification to the Secretary of the Council; or~~

~~b. Notification to another officer of the Council.~~

~~If an absence is unanticipated, the absent Council member shall notify the secretary or another officer of the Council prior to the next Council meeting of the reasons for the absence if an excused absence is requested. Any absence without prior or subsequent notification is considered an unexcused absence. Attendance of less than one-half of a regular meeting shall be recorded as an absence.~~

~~If a member of the Council has two unexcused absences within a calendar year, the member will be notified of the risk of vacating his or her position in the event of a third unexcused absence within the calendar year. In the case of a member who is an appointee of the Board of Supervisors or the City Selection Committee, the appointing entity will also be notified that their appointee is at risk of removal from the Council due to attendance issues. The appointing entity will be given the opportunity to address the issue with their appointee prior to any action being taken to remove the member.~~

~~SECTION 8:~~ VACANCIES

1. In the event of a vacancy ~~due to relocation, death, resignation,~~ or removal from membership, ~~due to three or more unexcused absences, conflict of interest or other circumstances,~~ the Council shall request the appointment of a replacement ~~in accordance with Article III, Section 2,~~ by the appropriate appointing body to serve the unexpired term of the former incumbent of the seat.

~~SECTION 9:~~ MEMBERSHIP APPEALS

1. In the event that an individual is removed from their Committee or Council Membership, an appeal may be made in writing to and shall be heard by the Executive Board at its discretion. The decision of the Executive Board is final.

~~SECTION 10:~~ COUNCIL REMUNERATION

1. Each Council member shall be eligible to receive a sum of thirty dollars ($30) for attendance at a Council meeting, subject to a maximum reimbursement for one such meeting per month. Council members may opt to waive remuneration. ~~and request that funds be directed~~Attendance of less than one-half of a regular meeting shall be considered an absence and not subject to remuneration.

~~to services and/or to support the operation of the OoA. In accordance with Article III, Section 7 of these Bylaws, attendance of less than one-half of a regular meeting shall be considered an absence and not subject to remuneration.~~

~~SECTION 11:~~ REIMBURSEMENT

1. Council members may be reimbursed for actual expenses incurred while performing within the scope of their duties and powers only with prior approval of the OoA Executive Director. ~~as described in ARTICLE II FUNCTIONS (POWERS AND DUTIES) of these Bylaws.~~ All requests for reimbursement shall be submitted in accordance with the policies and procedures adopted by the County on a form prepared by the Auditor-Controller.

~~ARTICLE IV~~
~~OFFICERS~~ARTICLE V – MEETINGS
~~SECTION 1: OFFICERS~~

~~The officer(s) of the Council shall be elected by the Council. They shall be a Chair, Vice Chair, Secretary and Treasurer, and such other officers as the Council may create. Member-at-Large members of the Council's Executive Board are not considered to be Council officers.~~

~~SECTION 2: ELECTION AND TERMS~~

~~Election of officers shall be held every two years during the regular January meeting of the Council, effective January 2007. All officers shall be elected for a term of two (2) years, and shall serve until their successors are elected. They shall begin their terms of office at the close of the January meeting at which they are elected.~~

~~SECTION 3: REMOVAL AND RESIGNATION~~

~~Any officer may be removed from office by a two-thirds (2/3) vote of the total membership. Any such officer shall be removed should that officer cease to be qualified for the office as provided in these Bylaws, or cease to be a member of the Council for any reason. Any officer may~~

~~resign at any time by giving written notice to the Council. Any such resignation shall become effective on the date identified in the letter of resignation unless otherwise specified; the acceptance of such resignation shall not be required to make it effective.~~

~~SECTION 4: VACANCIES~~

~~A vacancy in any office caused by death, resignation, removal from classification, disqualification or otherwise, shall be filled by election by the members of the Council for the unexpired portion of the term of said officer.~~

~~SECTION 5: DUTIES~~

~~A. Chair~~

~~The chair shall exercise general supervision of the affairs and activities of the Council, shall preside at all Council meetings, serve as chair to the Executive Board, and serve as ex-officio member of all other committees and advisory groups. The chair shall honor those who have made outstanding contributions to the senior network of Orange County. The chair may delegate awards recommendations activity to other Council members as necessary.~~

~~B. Vice Chair~~

~~The vice chair shall assume the duties of the chair in the event of the chair's absence, resignation or inability to perform prescribed duties; shall be parliamentarian, and shall serve as ex-officio member of all committees and advisory groups.~~

~~C. Secretary~~

~~The secretary shall:~~

~~(1) Take roll of Council members at each Council meeting and advise the chair as to the existence of a quorum as defined in Article V herein.~~

~~D. Treasurer~~

~~The treasurer shall:~~

~~(1) Keep records of voluntary contributions of the membership and report on the status of those funds at Council meetings.~~

~~SECTION 6: ABSENCE OF CHAIR AND VICE CHAIR~~

~~In the event of the absence of the chair and vice chair, a chair pro-tempore shall preside at the meeting. The secretary, with a quorum present, shall call the meeting to order and preside during such election of a chair pro-tempore. The secretary shall immediately relinquish the chair upon completion of the election.~~

1. Council meetings shall be held in accordance with the Ralph M. Brown Act (the “Brown Act”), Government Code Section 54950 et. Seq., as amended.
2. The Council shall hold regular monthly meetings, as scheduled by the Executive Director in coordination with OCCR.

3. Written notice of regular Council meetings will be mailed or emailed out, and publicly posted for any person who previously requested notice 72 hours prior to the meeting.

4. Council meetings shall be held at a location within Orange County, California, determined by OCCR that satisfies the access requirements of the American with Disabilities Act.
5. Council regular meetings shall be held during regular business hours.

6. A special meeting of the Council may be called by the Chair, the Executive Board or by a quorum of the Council. Notice on special meetings shall be delivered to the Council members personally, by mail or electronically, and must be received no later than twenty-

four hours in advance of the meeting. Written notice of such meetings must be provided to any person who has previously requested notice.

OCCR ADMINISTRATIVE SUPPORT (OCCR Support)

1. OCCR shall provide administrative support (OCCR Support) to the Council as directed by the Executive Director. OCCR Support shall include, but not be limited, to the following:

   A. Attendance at Meetings

      A representative designated by the OCCR, shall attend each meeting, and maintain a record of all proceedings and directives of the Council. OCCR Support will call agenda items or groups of items.

   B. Preparation and Distribution of Agenda

      i. OCCR Support will prepare, publicly post and distribute all agendas of the Council meetings. The agenda shall consist of a brief general description of each item to be considered by the Council, pursuant to the Ralph M. Brown Act, Government Code section 54950 et seq.

      ii. OCCR Support will prepare, publicly post, and distribute all supplemental agendas when there has been an item added, continued, deleted, and/or modified since the distribution of the initial agenda.

      iii. The regular OCWDB meeting agenda will be distributed and made available to the public at least 72 hours prior to the meeting, pursuant to the Ralph M. Brown Act, Government Code section 54950 et seq.

      iv. OCCR staff will audiotape meetings, and tape will act as official meeting record.

~~**ARTICLE V**~~
~~**MEETINGS OF COUNCIL AND COMMITTEES**~~
~~**SECTION 1: QUORUM**~~**QUORUM**

~~A~~A Council meeting quorum shall consist of a majority of Council members (50% + 1). A Committee meeting quorum shall consist of more than 25% of the members of that committee (25% + 1). No business shall be transacted without a quorum present. Each Council member shall have one vote. All Council actions and recommendations shall be by motion, duly seconded, and carried by an affirmative vote of a majority of Council members present.

~~**SECTION 2: VOTING RIGHTS AND RESTRICTIONS**~~

~~A. Rights~~

~~Each member shall have one vote on each motion before the Council, which has been duly seconded. Neither cumulative voting nor voting by proxy shall be allowed.~~

~~B. Restrictions~~

~~Council members are subject to the Political Reform Act (Government Code § 81000 et seq.), and other relevant state (e.g. Govt. Code §1090) and federal statutes.~~

~~**SECTION 3: MEETINGS**~~

~~The Council shall hold regularly scheduled monthly meetings at a time and place designated by the Council. Standing committees shall hold regularly scheduled meetings as approved by the Council. Meetings of the Council shall be open to the public and shall be conducted in accordance with the Ralph M. Brown Act.~~

~~**SECTION 4: NOTICES**~~

~~Notices of Council meetings shall be given in accordance with the requirements of the Ralph M. Brown Act. Notices of Council meetings shall be posted seventy-two hours prior to the regular meetings and sent to the Council members, and the appointing authorities of said members.~~

~~**SECTION 5: EMERGENCY MEETINGS**~~

~~Emergency meetings of the members of the Council, or an emergency meeting of the Executive Board for any purpose of direct interest to the Council, may be called at any time by the chair, or by a majority vote by the Executive Board. In such case, the purpose of such meeting shall be specified and notice shall be not less than twenty-four (24) hours.~~

1.

ARTICLE VI – EXECUTIVE BOARD ~~COMMITTEES~~

~~SECTION 1: STANDING COMMITTEES~~ OFFICERS

1. The officer(s) of the Executive Board shall be elected by the Council. They shall be a Chair, Vice Chair, Secretary and three members at large and duties will be designated by the Chair. Member-at- Large members of the Council's Executive Board are not considered to be Council officers.

    A. Should the current Chair and Immediate Past Chair be one and the same, or if the Immediate Past Chair cannot serve as a member of the Executive Board for any reason, a fourth Member-at-Large Council member shall be elected by the Council. Past Chairs, other than the Immediate Past Chair, shall be granted status as an honorary member of the Executive Board without the power of vote as long as they remain members of the Council.

    B. Responsibilities of the Executive Board shall be to liaise with the Board of Supervisors, the City Selection Committee, the California Commission on Aging, the Office on Aging, the Triple A Council of California, senior centers, nutritional sites, and, when necessary, legal counsel involved with Council matters.

ELECTION AND TERMS

1. Election of officers shall be held every two years during the regular January meeting of the Council. All officers shall be elected for a term of two (2) years and shall serve until their successors are elected. They shall begin their terms of office at the close of the January meeting at which they are elected.

EXECUTIVE BOARD REMOVAL AND RESIGNATION

1. Any officer may be removed from office by a two-thirds (2/3) vote of the total Council membership. Any such officer shall be removed should that officer cease to be qualified for the office as provided in these Bylaws or cease to be a member of the Council for any reason. Any officer may resign at any time by giving written notice to the Council. Any such resignation shall become effective on the date identified in the letter of resignation unless otherwise specified; the acceptance of such resignation shall not be required to make it effective.

EXECUTIVE BOARD VACANCIES

1. A vacancy on the Executive Board in any office caused by death, resignation, removal from classification, disqualification, or otherwise, shall be filled by election by the members of the Council for the unexpired portion of the term of said officer.

DUTIES

1. The Chair shall:

    A. Preside over all regular and special meetings.

    B. Act as an ex officio member on all committees.
    C. Establish committees and coordinate the appointment of Council members thereto and to the Nominating Committee.
    D. Represent the Council at, or designate a representative to attend, public functions, provided such functions have been approved by the Council and are consistent with County policy.

    E. Perform all other responsibilities allocated to the Chair under these bylaws.

2. The Vice-Chair shall:

    A. Assume the duties of the Chair when the Chair is absent or unable to perform the duties of the Chair.

    B. Perform all other responsibilities allocated to the Vice-Chair under these bylaws.

3. The Secretary shall:

    A. Take roll of Council members at each Council meeting and advise the chair as to the existence of a quorum.

    B. Collect “Monthly Senior Service Hours” from members, post and tabulate total hours.

ABSENCE OF CHAIR AND VICE CHAIR

1. In the event of the absence of the chair and vice chair, a chair pro-tempore shall preside at the meeting. The secretary, with a quorum present, shall call the meeting to order and preside during such election of a chair pro-tempore. The secretary shall immediately relinquish the chair upon completion of the election.

The Council may maintain a structure of standing committees limited in number to long- range activities required to carry out the functions of the Council and Area Plan of the OoA. The Executive Board of the Council shall recommend to the Council the standing committees to be in operation as well as the purpose, composition and structure of such committees.

A. Membership on at least one standing committee is mandatory for all Council members.
B. Standing committees shall be composed of members of the Council and may include public members and professionals with experience and/or training in areas stated in the purpose of the committee. All standing committee members shall be approved by the Executive Board.
C. Standing committees shall have no more than one chair person.
D. Members of the Executive Board shall not serve as chair or vice-chair of any standing committee.
E. Meetings of standing committees shall be open to the public and shall be conducted in accordance with the Ralph M. Brown Act. Notice of meetings of standing committees shall be given in accordance with the Ralph M. Brown Act.
F. Each standing committee may appoint ad-hoc subcommittees and task forces as may, in the committee's judgment, be required to cover a prime area of interest requiring detailed attention, development or support. Subcommittees and task forces shall be comprised solely of members of the standing committee totaling less than a quorum of the standing committee. Subcommittees and task forces shall dissolve upon conclusion of the assigned task.
G. The chairperson of each standing committee or an authorized representative shall attend meetings of the Executive Board.
H. In the event a standing committee is without a chair, the chair of the Council may appoint a convener for the committee until a committee chair is nominated by majority of the members of the committee and approved by the Council.
I. Standing committee chairs shall report committee, subcommittee and task force activities to the Council and Executive Board when scheduled or requested to do so.

SECTION 2: EXECUTIVE BOARD

The Council shall have an Executive Board which shall be responsible to control the routine operations of the Council. It shall consist of the elected officers of the Council as set forth in Article IV Section 1 of these Bylaws, the Immediate Past Chair, and two (2) Members-at- Large. Should the current Chair and Immediate Past Chair be one and the same, or if the Immediate Past Chair cannot serve as a member of the Executive Board for any reason, a third Member-at-Large Council member shall be elected by the Council. Past Chairs, other than the Immediate Past Chair, shall be granted status as an honorary member of the Executive Board without power of vote as long as they remain members of the Council.

Meetings of the Executive Board shall be open to the public and shall be conducted in accordance with the Ralph M. Brown Act. Notice of meetings of the Executive Board shall be given in accordance with the Ralph M. Brown Act.

The Executive Board shall be responsible for liaison with the Board of Supervisors, the City Selection Committee, the California Commission on Aging, the Office on Aging, the Triple A Council of California, senior centers, nutritional sites, and, when necessary, legal counsel involved with Council matters.

SECTION 3: EX-OFFICIO MEMBERS

The Chair, Vice Chair and the OoA Director shall be ex-officio members of all committees, except as otherwise noted in these Bylaws.

~~**SECTION 4: COMPOSITION**~~

~~In addition to the Executive Board, the standing committees shall consist of: Health and Nutrition, Housing and Transportation, and Legislation.~~

~~SECTION 5: NOMINATING COMMITTEE~~ARTICLE VII – COMMITTEES

1. All standing committees established under the Council shall conform to the bylaws of the full Council. All actions of Council standing committees and workgroups are advisory to the Council. Chairs of the Council standing committees, in consultation with the Council and the Executive Director, shall prepare the agenda for standing committee meetings.

2. All committees shall follow the general operating procedures and rules, which govern the Council membership. Any recommended deviation from this section must be approved by the Executive Board and/or the Council.

3. The Chair, Vice Chair and the OoA Director shall be ex-officio members of all committees, except as otherwise noted in these Bylaws.

STANDING COMMITTEES

1. The Executive Board shall annually assess standing committee activities, committee membership composition, committee effectiveness, and the relationship of committees to each other to determine if committees should be retained, merged, altered, or dissolved.

2. The Executive Board shall solicit and consider the analysis and comments of the OoA Director regarding the effectiveness of each committee at such time as the Executive Board reviews the annual report of the committee.

3. To the extent possible, standing committees shall be comprised of the required Council representative categories and must be chaired by a member of the Council.

4. The term of the Chair of any standing committee shall be for two (2) calendar years, concurrent with the term of the Chair of the Council.

5. The Committee Chair shall be appointed by the Executive Board Chair. Council members will volunteer to be on the standing committees and will be recommended by the Executive Board Chair. In such case that membership is not met for the committees, the Executive Board Chair will appoint members accordingly.

6. The Council may maintain a structure of standing committees limited in number to long-range activities required to carry out the functions of the Council and Area Plan of the OoA. The Executive Board of the Council shall recommend to the Council the standing committees to be in operation as well as the purpose, composition and structure of such committees.

7. Membership on at least one standing committee is mandatory for all Council members.

8. Standing committees shall be composed of members of the Council and may include public members and professionals with experience and/or training in areas stated in the purpose of the committee. All standing committee members shall be approved by the Executive Board.

9. Standing committees shall have no more than one chairperson.

10. Members of the Executive Board shall not serve as chair or vice-chair of any standing committee.

11. Meetings of standing committees shall be open to the public and shall be conducted in accordance with the Ralph M. Brown Act. Notice of meetings of standing committees shall be given in accordance with the Ralph M. Brown Act.

12. Each standing committee may appoint ad-hoc subcommittees and task forces as may, in the committee's judgment, be required to cover a prime area of interest requiring detailed attention, development or support. Subcommittees and task forces shall be comprised solely of members of the standing committee totaling less than a quorum of the standing committee. Subcommittees and task forces shall dissolve upon conclusion of the assigned task.

13. In the event a standing committee is without a chair, the chair of the Council may appoint a convener for the committee until a committee chair is nominated by majority of the members of the committee and approved by the Council.
14. Standing committee chairs shall report committee, subcommittee and task force activities to the Council and Executive Board when scheduled or requested to do so.

15. Standing Committee Chairs shall submit a monthly written report one week prior to the monthly meeting of the full SCAC council.
16. Standing Committee Chairs are welcomed to attend all Executive Board meetings and shall attend January, March and September Executive Board meetings.

AD-HOC COMMITTEES

1. The Chairperson of the Council may establish ad hoc committees to accomplish time-limited tasks that support the goals of the Council. Each ad hoc committee shall be composed of less than the quorum of the Council members and shall only serve as an advisory committee on a specific item for a limited period. When an ad hoc committee is created, the Chair or Council member calling for the creation of ad-hoc committee shall identify the committee's membership, the scope of work, work product, and date of dissolution.

2. When appropriate, committees may call on other knowledgeable individuals who are not Council members to act as consultants to the committees. Said individuals shall be subject to the conflict of interest statutes, regulations, and ordinances.

3. The Committee chair shall be appointed by the Board chair. Council members will volunteer to be on the committee and will be recommended by the Board chair. In such case that membership is not met for each committee, the Board chair will appoint members accordingly.

~~SECTION 3:~~ EX-OFFICIO MEMBERS

1. The Chair, Vice Chair and the OoA Director shall be ex-officio members of all committees, except as otherwise noted in these Bylaws.

NOMINATING COMMITTEE

1. ~~Every two years T~~the Chair shall appoint a Nominating Committee in October of the even numbered years, consisting of not less than ~~at least~~ three ~~(3)~~members of the Council. ~~Executive Board members shall not participate in nominating committee meetings. members, but less than a quorum of the Council membership. These members will be appointed at the regular November meeting and shall submit nominees for officers, in writing, for mailing to Council members. Members of this committee shall not nominate a member of this committee for the office of Council Chair, Vice Chair, Secretary, Treasurer or Member-at-Large.~~The Nominating Committee shall appoint a committee chair; select a slate of officers for the following fiscal year, secure the consent of those nominated, and present the slate of candidates at the January meeting of the Council. Additional nominations for any office may be made from the floor by members at the January Council meeting.

~~SECTION 6: TASK FORCE~~

~~The Chair may, from time to time, authorize and establish temporary, ad-hoc task forces as may be required for the conduct of the affairs of this Council, which task force shall have the duties and life as defined by the Council or the Executive Board. All such task forces shall be comprised of Council members totaling less than a quorum of the full Council. The task force shall be dissolved at the conclusion of the assigned task.~~

~~SECTION 7:~~ GENERAL PROCEDURES FOR COMMITTEES

1. All committees shall follow the general operating procedures and rules, which govern the Council membership. Any recommended deviation from this section must be approved by the Executive Board and/or the Council.

~~SECTION 8:~~ ANNUAL STANDING COMMITTEE EVALUATION

1. Intent

~~A.~~

A. The Executive Board shall annually assess standing committee activities, committee membership composition, committee effectiveness, and the relationship of committees to each other to determine if committees should be retained, merged, altered, or dissolved.

2. Annual Committee Reports

~~B.~~

A. As part of the above-described annual review process, the officers of each committee shall annually, on a schedule adopted by the Executive Board, submit a summarized written report to the Executive Board identifying the committee's activities during the previous year and other information as the Council, by its Bylaws or otherwise, may specify.

3. OoA Director Analysis

~~C.~~

A. The Executive Board shall solicit and consider the analysis and comments of the OoA Director regarding the effectiveness of each committee at such time as the Executive Board reviews the annual report of the committee.

4. Staff Support to Council Committees

~~D.~~

A. Subject to budgetary capabilities, the Director of the Office on Aging may provide clerical and technical assistance to the committees of the Council, with the officers of the committees responsible for all administrative duties related to committee operation.

ARTICLE VIII – OVERSIGHT AND STAFFING SUPPORT

1. The Council is programmatically responsible to the BOS, through the OCCR.

2. The Council shall have no authority to accept gifts or donations on behalf of the County unless done in accordance with the OCCR's Board approved Marketing Plan and County gifts or donation policies.

3. Each Council member shall attend annual trainings as determined by the OCCR, OCCR and/or the BOS including, but not limited to, trainings relating to ethics and conflicts of interest.

ARTICLE IX – ADVOCACY

1. The Council website shall be hosted on the OCCR domain and managed by OCCR.

2. The County must approve all Council correspondence, statements, press releases, and reports prior to release. A 50+ 1 majority of the quorum of the Council must approve all such correspondence, statements, press releases, and reports prior to the Council's submittal of any such items to OCCR and request for the County's approval of such items.

3. All Council communications shall be preapproved by OCCR and be on OCCR and Council letterhead.

4. The Council's recommendations on legislation must be approved by the majority vote of a quorum of the Council and submitted to the County Executive Office legislative planning committee for recommendation to the County through OCCR. The Council shall not take positions on legislation without the approval of the County.

5. All use of the County and Council emblem/seal requires pre-approval of the County through OCCR.

6. Neither the Council nor any of its Council members shall promote, directly or indirectly, any political party, political candidate or political activity using the name, emblem, or any other identifier of the Council or County of Orange logo.

ARTICLE X - BYLAWS~~VII~~

~~BYLAWS~~

~~SECTION 1: EFFECTIVE DATE~~

ADOPTION OF BYLAWS

1. The Bylaws shall become effective immediately upon approval of the BOS. ~~These Bylaws shall become effective immediately on their adoption. Amendments to these Bylaws shall become effective immediately on their adoption unless the Council, in adopting them, provides that they are to become effective at a later date.~~

~~SECTION 2: AMENDMENTS~~
AMENDMENTS TO BYLAWS

~~A.~~1. A r~~R~~ecommendations to amend the~~se~~ Bylaws, approved ~~may be made~~ by a majority vote of the members of the Council shall submitted by OCCR to the BOS for approval. ~~a quorum of this Council at any regular meeting provided that the amendments have been submitted to the membership, in writing, at least one (1) week prior to the meeting. All amendment recommendations shall be considered by the Board for approval.~~ However, such an amendment will not take effect unless approved by the BOS. ~~No Bylaw amendment shall become effective without Board approval.~~The

~~B. These Bylaws are subordinate to any law, regulation, resolution or ordinance that may deem any part, term, portion or provision of these Bylaws unenforceable or ineffectual. Council members shall comply with any law, regulation, resolution or ordinance that may be in conflict with these Bylaws until the time these Bylaws are amended to address the conflict.~~

~~C. Should any part, term, portion or provision of these Bylaws be determined to be in conflict with any law, regulation or ordinance or otherwise unenforceable or ineffectual, the remaining parts, terms, portions or provisions shall be deemed severable and their validity shall not be affected thereby provided such remaining portions or provisions can be construed in substance to constitute the provisions that the members intended to enact in the first instance.~~

ARTICLE XI – SEVERABILITY

1. If any provision of these bylaws is determined to be invalid or unenforceable, that provision shall be deemed stricken and the remainder of these bylaws shall continue in full force and effect.

ARTICLE XII – PARLIAMENTARY AUTHORITY~~VIII~~
~~PARLIAMENTARY AUTHORITY~~
~~SECTION 1: RULES~~

RULES

1. Robert's Rules of Order, Revised, when not in conflict with the statutes of the United States or the State of California; and the Rules and Regulations of the Orange County Board of Supervisors, shall be the Rules of Procedure of the meetings of the Council except that all actions of the Council shall pass by a simple majority vote of Council members unless specifically provided for elsewhere in these Bylaws.

~~SECTION 2:~~ STANDING RULES

1. The Council shall adopt standing rules of operations providing they do not conflict with these Bylaws.

ARTICLE XIII – EXISTENCE OF COUNCIL ~~IX~~
~~EXISTENCE OF COUNCIL~~

1. The Council shall continue to exist indefinitely, subject to the requirements of the law and Board policy.

Adopted by Board of Supervisors on _____

CLERK OF THE BOARD

MEMORANDUM

Date: December 11, 2020

To: Honorable Board of Supervisors

From: Valerie Sanchez, Chief Deputy Clerk of the Board

Subject: Agenda Revision to Delete Item 20 on the 12/15/20 Agenda

---

Due to the timing of publication for the December 8th and 15th agendas occurring during two subsequent weeks, the Clerk of the Board placed an agenda item for an ordinance requiring first reading on 12/8/20 (Agenda Item 22) and the second reading and adoption for 12/15/20 (Agenda Item 20).

After both agendas were published, Clerk of the Board received a continuation memo from the submitting department continuing the item for the first reading of the ordinance from 12/8/20 to 12/15/20. The continued item has been placed on the 12/15/20 revision-supplemental agenda as Agenda Item S37A.

Since the second reading and adoption originally scheduled for 12/15/20 is no longer valid, Agenda Item 20 from the 12/15/20 agenda is being deleted.

If you have any questions, please feel free to contact me. Thank you.

cc.: Frank Kim, CEO
Leon Page, County Counsel

Legislative Bulletin

DRAFT

A Publication of the County Executive Office/Legislative Affairs

December 15, 2020
Item No. 34

County of Orange Positions on Proposed Legislation

The Legislative Bulletin provides the Board of Supervisors with analyses of measures pending in Sacramento and Washington that are of interest to the County. Staff provides recommended positions that fall within the range of policies established by the Board. According to the County of Orange Legislative Affairs Procedures adopted by the Board of Supervisors on December 10, 2019, staff recommendations for formal County positions on legislation will be agendized and presented in this document for Board action at regular Board of Supervisors meetings. When the Board takes formal action on a piece of legislation, the CEO will direct the County's legislative advocates to promote the individual bills as approved by the Board. The Legislative Bulletin also provides the Board of Supervisors with informative updates on State and Federal issues.

The 2019-2020 Legislative Platform was adopted by the Board of Supervisors' on December 4, 2018.

On December 15, 2020, the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

1. **APPROVE: 2021-22 Legislative Platform (Attachment A)**
2. **Receive and File Legislative Bulletin**

INFORMATIONAL ITEMS

1. **County Position Matrix: CEO-LA**
2. **Sacramento Legislative Report**
3. **Washington DC Legislative Report**

RECOMMENDED ACTIONS

1. **APPROVE: 2021-22 Legislative Platform (Attachment A)**

SUMMARY: Approving the 2021-22 Orange County Legislative Platform will allow the County to pursue critical policy initiatives in Sacramento and Washington DC.

BACKGROUND INFORMATION: The Orange County Board of Supervisors recognizes the need to protect its interests in Sacramento and Washington, DC. To be effective in this mission, the County develops its Legislative Platform with the County Executive Office of Legislative Affairs (CEO-LA) in advance of each two-year legislative session, in conjunction with the Board, County departments, and the County's state and federal legislative advocates.

On December 4, 2019, your Board approved the 2019-20 County of Orange Legislative Platform.

INFORMATIONAL ITEMS

1. County Position Matrix: CEO-LA

The matrix below summarizes active bills the County has taken positions on in 2019-20.

State Legislation *As of Thursday, December 10, 2020*

Bill Number	Author	Subject	Position	Date of Board Action	Status	Notes
AB 434	Daly	Housing Financing Programs: Uniform Procedures	**Support**	7.28.20	Chaptered #192	
AB 2265	Quirk-Silva	Mental Health Services Act: Use of funds for substance use disorder treatment	**Support**	5.19.20	Chaptered #144	
SB 555	Mitchell	Jails and Juvenile Facilities: Telephone Services: Store	**Oppose**	6.25.19	Vetoed	
SB 803	Beall	Mental Health Services: peer support specialist certification	**Support**	3.10.20	Chaptered #150	
SB 1196	Umberg	Price gouging	**Support**	5.19.20	Chaptered #339	

Federal Legislation *As of Thursday December 10, 2020*

Bill Number	Author	Subject	Position	Date of Board Action	Status	Notes
HR 2995	Levin	Spent Fuel Prioritization Act	**Support**	6.25.19	House Energy and Commerce Committee	

HR 4004	Bustos	The "Social Determinants Accelerator Act of 2019"	**Support**	1.14.20	House Energy and Commerce Committee	
HR 5516	Levin	Commitment to Veteran Support and Outreach	**Support**	9.15.20	House Veterans Affairs Committee	
S.923	Feinstein	Fighting Homelessness Through Services and Housing Act	**Support**	5.7.19	Senate Health, Education, Labor and Pensions Committee	
S. 3020	Baldwin	Commitment to Veteran Support and Outreach	**Support**	3.10.20	Senate Veterans Affairs Committee	
S. 4431	Feinstein	Emergency Wildfire and Public Safety Act of 2020	**Support**	9.29.20	Senate Energy and Natural Resources Committee	

2. Sacramento Legislative Report

Prepared by Precision Advocacy Group LLC

The Legislature returned to Sacramento on Monday to swear in new legislators, elect leadership, and participate in their constitutionally required organizational session. In stark contrast to prior years, the mood was low-key with a few zoom parties, but nothing in the way of in-person social events.

All four legislative leaders are continuing their posts into the 2021-22 legislative session:

- Senate President pro Tempore Toni Atkins (D-San Diego)
- Senate Minority Leader Shannon Grove (R-Bakersfield)
- Assembly Speaker Anthony Rendon (D-Lakewood)
- Assembly Minority Leader Marie Waldron (R-Escondido)

Priorities for 2021 laid out by Atkins and Rendon include addressing the economic and public health toll of COVID-19, housing production, broadband access, and law enforcement reform. These issues were directly reflected in the Legislature's introduction of 110 Assembly bills and 79 Senate bills with numerous pieces of legislation impacting aspects of the pandemic (or future pandemics), the Employment Development Department, broadband access, police reform, and housing and homelessness. Legislation is eligible to be heard in policy committee 30 days after introduction. Announcement of committee assignments are expected later this month.

Only one bill so far, SB 43 (Umberg) Veterans cemetery: County of Orange, is specific to the County. The measure currently contains language stating that it is the intent of the Legislature to enact legislation that will address the establishment of a veterans cemetery in the County of Orange. The bill will be amended prior to being heard in policy committee and we have contacted the author's office for additional information.

Below are some additional bills that may be of interest to the County pertaining to COVID-19, housing and homelessness, and law enforcement reform.

COVID-19 Legislation

AB 6 (Levine) Health facilities: pandemics and emergencies: best practices
Summary: Would require, by July 1, 2022, the State Department of Public Health and the State Department of Social Services to collaborate to create health and safety guidelines and a description of best practices for use by skilled nursing facilities, intermediate care facilities, and congregate living health facilities that are providing post-acute care during a pandemic, public health crisis, or other emergency.
Note: In Assemblymember Marc Levine's Marin County district, 85% of all COVID-19 related deaths have occurred at long term care facilities. Residents of California's long term care facilities have comprised 77,461 of the state's 1.3 million COVID-19 cases and 6,766 of the State's 19,935 COVID-19 related deaths (34%).

AB 10 (Ting) Pupil instruction: in-person instruction: distance learning
Summary: This bill would specify that the requirement in current law to provide in-person instruction to K-12 pupils applies when that instruction is allowed under state and county public health orders.
Note: According to Assemblymember Phil Ting (D-San Francisco), the goal of this measure is to, "bring students back into the classroom with safety measures in place as soon as possible to prevent further learning loss." Public schools have primarily remained closed during the pandemic, disproportionately impacting low-income students. Assemblymember Cottie Petrie-Norris is a co-author of AB 10.

AB 15 (Chiu) COVID-19 relief: tenancy: Tenant Stabilization Act of 2021
Summary: Would extend the definition of "COVID-19 rental debt" as unpaid rent or any other unpaid financial obligation of a tenant that came due between March 1, 2020, and December 31, 2021. The bill would also extend the repeal date of the act to January 1, 2026.

AB 16 (Chiu) Tenancies: Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021
Summary: Would state the intent of the Legislature to enact the Tenant, Small Landlord, and Affordable Housing Provider Stabilization Act of 2021 to address the long-term financial impacts of the COVID-19 pandemic on renters, small landlords, and affordable housing providers, ensure ongoing housing stability for tenants at risk of eviction, and stabilize rental properties at risk of foreclosure.

AB 54 (Kiley) COVID-19 emergency order violation: license revocation
Summary: Would prohibit the Department of Consumer Affairs and the Department of Alcoholic Beverage Control from revoking a license for failure to comply with any COVID-19 emergency orders unless the board or department can prove that lack of compliance resulted in transmission of COVID-19.

AB 61 (Gabriel) Local government
Summary: States the intent of the Legislature to enact legislation authorizing local jurisdictions to enact and operate programs to facilitate outdoor dining safe and consistent with public health guidelines during the COVID-19 pandemic.

AB 62 (Gray) Income taxes: credits: costs to comply with COVID-19 regulations
Summary: This bill would allow a credit against personal income and corporation taxes for each taxable year beginning on or after January 1, 2021, to a qualified taxpayer, in an amount equal to the total amount paid or incurred during the taxable year by the qualified taxpayer to comply with the regulations adopted by the Occupational Safety and Health Standards Board on November 19, 2020, relating to COVID-19 prevention and approved by the Office of Administrative Law.

Note: According to Assemblymember Adam Gray's (D-Merced) press release, "The State cannot hold small businesses to a higher standard than it is willing to hold itself. COVID-19 cases are spiraling throughout the state, yet state government has had nothing but excuses for why unemployment checks are late, testing

supplies are running out in rural communities, contracts to boost lab capacity and essential supplies of PPE keep falling through. Now, hospitalizations are breaking records despite a prolonged economic shutdown….While the State pays no penalty for its incompetence or indifference, Cal/OSHA has adopted dozens of new regulations that owners of small businesses will be forced to meet no matter the cost."

AB 93 (Garcia, Eduardo) Pandemics: priority for medical treatment: food supply industry workers
Summary: States the intent of the Legislature to enact legislation to prioritize workers in the food supply industry, including, but not limited to, field workers and grocery workers, for rapid testing and vaccination programs in response to pandemics, including COVID-19.

SB 3 (Caballero) Tenancy: COVID-19
Summary: The COVID-19 Tenant Relief Act of 2020 establishes certain procedural requirements and limitations on evictions for nonpayment of rent due to COVID-19 rental debt, as defined. This bill would extend the covered time period and transition time period for purposes of the act to March 31, 2021.

SB 46 (Stern) Employment: contact tracing and safety policies: COVID-19
Summary: States the intent of the Legislature to enact legislation that would require an employer to develop and implement contact tracing and safety policies for its employees, including requiring notice to the employer when an employee receives a positive COVID-19 test.

SB 49 (Umberg) Business fees: reimbursement: waiver: Coronavirus (COVID-19) pandemic
Summary: Expresses the intent of the Legislature to enact legislation reimbursing or waiving state or locally mandated operating fees for businesses that are unable to operate due to statewide or local actions or ordinances instituted as a result of the Coronavirus pandemic.
Note: Senator Tom Umberg's press release states, "California businesses have sacrificed too much for our public health: many have closed permanently, others have been forced to lay off valued employees, and all have struggled. It is wrong for the state to charge fees to companies and professionals for work they are prohibited from doing through no fault of their own."

SB 64 (Leyva) Mobilehome parks: emergency relief: coronavirus (COVID-19)
Summary: This bill would prohibit management from terminating or attempting to terminate the tenancy of a homeowner or resident of a mobilehome park who is impacted by the coronavirus (COVID-19) pandemic, on the grounds of failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or failure to pay rent, utility charges, or reasonable incidental service charges during a declared state of emergency or local emergency related to the coronavirus (COVID-19) pandemic, and during a 120-day time period after the state of emergency or local emergency is terminated, unless necessary to protect the public health or safety.

Housing/Homelessness Legislation

AB 27 (Rivas, Luz) Homeless children and youths and unaccompanied youths: reporting
Summary: This bill would require a local educational agency (LEA) to ensure that each school within the LEA identifies all homeless children and youths and unaccompanied youths, enrolled at the school, administer a housing questionnaire, for purposes of identifying homeless individuals, and annually provide the housing questionnaire to all parents or guardians of pupils and unaccompanied youths of the LEA.

AB 49 (Petrie-Norris) California Debt Limit Allocation Committee: elimination and allocation of duties
Summary: States the intent of the Legislature to enact future legislation eliminating the California Debt Limit Allocation Committee and transferring the duties and authority of that committee to the California Tax Credit Allocation Committee.
Note: This policy change was recommended in the State Auditor's recent report on affordable housing.

AB 59 (Gabriel) Mitigation Fee Act: fees: notice and timelines
Summary: Would reform the assessment of impact fees imposed by local governments
Note: The intent of this measure is to expedite the construction of affordable housing.

AB 68 (Salas) Affordable housing: California State Auditor's Report
Summary: States the intent of the Legislature to enact legislation implementing recommendations made in the California State Auditor's Report 2020-108, issued on November 17, 2020, relating to affordable housing.

AB 71 (Rivas, Luz) Statewide homelessness solutions program
Summary: This bill would create the Bring California Home Fund in the State Treasury for the purpose of providing at least $2.4 million annually to fund a statewide homeless solutions program, upon appropriation by the Legislature. The bill would require the Bring California Home Fund to contain revenues derived from specified changes to the Personal Income Tax Law or the Corporation Tax Law that are enacted on or after the effective of the date of this bill.
Note: Endorsed by Sacramento Mayor Darrell Steinberg and Los Angeles Mayor Eric Garcetti, the goal of AB 71 is to provide a stable and ongoing funding source to help local governments address homelessness. The measure would be funded by increasing personal income taxes on incomes over $1 million, increasing corporate income taxes, and closing corporate loopholes.

ACA 1 (Aguiar-Curry) Local government financing: affordable housing and public infrastructure: voter approval
Summary: The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

SB 5 (Atkins) Housing: bond act
Summary: States the intent of the Legislature to enact legislation authorizing the issuance of bonds and requiring the proceeds from the sale of those bonds to be used to finance housing-related programs that serve the homeless, extremely low income, and very low income Californians.

SB 6 (Caballero) Local planning: housing: commercial zones
Summary: This bill, the Neighborhood Homes Act, would authorize local governments to approve housing development on commercial retail and office spaces.
Note: According to the author, "Allowing mixed-use infill development on existing shopping center or strip mall properties will help the state achieve its housing goals and spur economic activity in regions most in need of revitalization."

SB 9 (Atkins) Housing development: approvals
Summary: Would require a proposed housing development containing 2 residential units within a single-family residential zone (duplexes) to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements.

SB 10 (Wiener) Planning and zoning: housing development: density
Summary: Would, notwithstanding any local restrictions on adopting zoning ordinances, authorize a local government to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel, at a height specified in the ordinance, if the parcel is located in a transit-rich area, a jobs-rich area, or an urban

infill site. The bill would require the Department of Housing and Community Development, in consultation with the Office of Planning and Research, to determine jobs-rich areas and publish a map of those areas every 5 years, commencing January 1, 2022. The bill would specify that an ordinance adopted under these provisions is not a project for purposes of the California Environmental Quality Act. The bill would prohibit a residential or mixed-use residential project consisting of 10 or more units that is located on a parcel rezoned pursuant to these provisions from being approved ministerially or by right.

SB 15 (Portantino) Housing development: incentives: rezoning of idle retail sites
Summary: This bill, upon appropriation by the Legislature, would require the Department of Housing and Community Development (HCD) to administer a program to provide incentives in the form of grants to local governments that rezone idle sites used for a big box retailer or a commercial shopping center to instead allow the development of workforce housing.
Note: Sponsored by the Los Angeles County Business Federation and State Building Trades, SB 15 aims to allow local governments to use grants to replace sales tax revenues previously generated from retail sales. These grants would provide the average of the annual amount of sales tax revenue generated by that site for the last 5 years if the site has been converted and occupied with new housing.

SB 44 (Allen) California Environmental Quality Act: streamlined judicial review: environmental leadership transit projects
Summary: Would require the Judicial Council, on or before April 1, 2022, to adopt rules of court establishing procedures requiring actions or proceedings seeking judicial review pursuant to CEQA or the granting of project approvals, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings seeking judicial review of the lead agency's action related to an environmental leadership transit project.

SCA 2 (Allen) Public housing projects
Summary: The California Constitution prohibits the development, construction, or acquisition of a low-rent housing project, as defined, in any manner by any state public body until a majority of the qualified electors of the city, town, or county in which the development, construction, or acquisition of the low-rent housing project is proposed approve the project by voting in favor at an election. This measure would repeal these provisions.

Law Enforcement Reform Legislation

AB 17 (Cooper) Peace officers: disqualification from employment
Summary: Current law disqualifies certain persons from holding office or being employed as a peace officer, including any person who has been convicted of a felony. This bill states the intent of the Legislature to amend this provision governing the disqualification of certain persons from holding office or being employed as a peace officer.

AB 26 (Holden) Peace officers: use of force
Summary: Current law requires each law enforcement agency, on or before January 1, 2021, to maintain a policy that provides a minimum standard on the use of force. Current law requires that policy, among other things, to require that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be unnecessary, and to require that officers intercede when present and observing another officer using force that is clearly beyond that which is necessary. This bill would require those law enforcement policies to require officers to immediately report potential excessive force, and to intercede when present and observing an officer using excessive force.

AB 38 (Cooper) Statewide bail schedule
Summary: Would require the Judicial Council to prepare, adopt, and annually revise a statewide bail schedule for all bailable felony offenses and for all misdemeanor and infraction offenses except Vehicle Code infractions.

AB 48 (Gonzalez, Lorena) Law enforcement: kinetic energy projectiles and chemical agents
Summary: AB 48 creates statewide standards on law enforcement officers' use of projectile weapons and chemical agents during protests and other large crowd gatherings.
Note: This measure is a reintroduction of AB 66 from the 2019-20 legislative session.

AB 60 (Salas) Law enforcement
Summary: Would disqualify a person from being employed as a peace officer if that person has been convicted of, or has been adjudicated by a military tribunal as having committed an offense that would have been a felony if committed in this state. The bill would also disqualify any person who has been certified as a peace officer by the Commission on Peace Officer Standards and Training and has had that certification revoked by the commission.

AB 89 (Jones-Sawyer) Peace officers: minimum qualifications
Summary: This bill increases the minimum qualifying age for peace officers from 18 to 25 years of age, and permits an individual under 25 years of age to qualify for employment as a peace officer if the individual has a bachelor's or advanced degree from an accredited college or university.

AB 94 (Jones-Sawyer) Correctional officers
Summary: States the intent of the Legislature to enact legislation to require all correctional officers to receive annual mental health evaluations.

SB 2 (Bradford) Peace officers: certification: civil rights
Summary: States the intent of the Legislature to enact legislation amending the Tom Bane Civil Rights Act and to provide a decertification process for peace officers.
Note: This measure is a reintroduction of SB 731 from the 2019-20 legislative session and is co-authored by Senate pro Tem Atkins. California is one of five states in the nation that does not have the authority to decertify law enforcement officers who have committed serious misconduct.

SB 16 (Skinner) Peace officers: release of records
Summary: Would, commencing July 1, 2022, expand public disclosure of officers' use of force, unlawful arrests and searches, and prejudice or discrimination. It would require the retention of all complaints and related reports or findings currently in the possession of a department or agency. The bill would require that records relating to an incident in which an officer resigned before an investigation is completed to be subject to release.
Note: This is a reintroduction of SB 731 from the 2019-20 legislative session.

Governor's Press Releases

Below is a list of the governor's press releases as well as links to other relevant information linked in those press releases beginning December 1st.

December 9: Governor Newsom Announces Liane Randolph as the Chair of the Air Resources Board
December 8: Governor Newsom Appoints 12 Superior Court Judges
December 8: Governor Newsom Nominates First Asian American Justice to Serve on Fourth District Court of Appeal
December 7: Governor Newsom Issues Proclamation Declaring Pearl Harbor Remembrance Day

December 7: Governor Newsom Announces Statewide Expansion of CA Notify, a Smart Phone Tool Designed to Slow the Spread of COVID-19
December 7: Governor Newsom Announces Appointments - Director of the California Department of Public Health, Director of the Office of Statewide Health Planning and Development, Director of the California Department of Managed Health Care, Senior Business Development Specialist at the Governor's Office of Business and Economic Development, Supervisor for the 1st District of the Ventura County Board of Supervisors, and Strategic Growth Council
December 4: Governor Newsom Swears in Justice Martin Jenkins to the California Supreme Court
December 4: Governor Newsom Announces Appointment of Legislative Affairs Secretary
December 3: Governor Newsom Statement on Death of San Francisco Sheriff's Deputy
December 3: California Health Officials Announce a Regional Stay at Home Order Triggered by ICU Capacity
December 2: Governor Newsom Announces Appointments - Chief Deputy Director at the Department of Alcoholic Beverage Control; Special Advisor to the Directorate at the California Department of Social Services; Deputy Director and Chief Counsel at the California Department of Social Services; Deputy Director of the Adult Programs Division at the California Department of Social Services; State Council on Developmental Disabilities; and Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun
December 2: Governor Newsom Statement on Death of California Highway Patrol Officer
December 1: Governor Newsom Announces Appointments - California Board of Accountancy, San Francisco Bay Conservation and Development Commission, and the State Bar of California Board of Trustees
December 1: Governor Newsom Releases the Master Plan for Early Learning and Care: California for All Kids

3. Washington DC Legislative Report

Prepared by Van Scoyoc Associates

CAPITOL HILL

Leaders Pushing for Deal on Phase 4 and Omnibus Appropriations Bill

The past week has seen a series of developments—both positive and negative—related to potential passage of a Phase 4 COVID-19 economic aid package, as well as the Fiscal Year 2021 appropriations bills before federal funding expires December 11th. It is the hope of leaders in Congress to add the Phase 4 legislation to an annual spending bill.

Despite positive movement last week, things have slowed a bit on the Omnibus Appropriations discussions. The much-anticipated readout between the House and Senate Appropriations Committees staff, which traditionally is a key step to a final deal, did not happen over the weekend as planned. So the timing has slowed, but they continue to exchange offers and counteroffers on the major outstanding issues. With time ticking, the House will pass a continuing resolution to extend the December 11th deadline for federal funding through December 18th. The Senate is poised to act shortly thereafter. They hope to use the extra seven days to reach a deal on both the Phase 4 bill and the FY21 appropriations bill or bills. For a number of reasons, leaders might divide the 12 appropriations bills into two or more separate packages, and attach Phase 4 to one of them.

On Phase 4, the negotiations among a small group of rank-and-file senators and representatives to turn their $908 billion framework into an actual bill with full details stalled. The group is now calling itself the "Gang of 908" after the price tag of the framework. At the heart of the setback is the demand by Democrats to include sizable funding for state and local governments, and the demand by Republicans to include

liability protections for all entities that open their doors to the public. The details of both issues remain elusive for an agreement. Senate Majority Leader Mitch McConnell suggested Congress pass the rest of the bill and return to finalize the liability and state/local issue early next year. Responding to this comment, Senator Joe Manchin (D-WV), who has spearheaded the Gang of 908, said Senator McConnell doesn't want a deal. Democratic leaders Senator Chuck Schumer and Speaker Nancy Pelosi both rejected McConnell's offer. During the negotiations in April for Phase 3.5 which replenished several depleted CARES Act programs, Pelosi and Schumer wanted state and local funding included, but ultimately accepted the Phase 3.5 package without state/local funding under McConnell's commitment to included it in the next package. Eight months later, they no doubt remember that event.

Meanwhile, shortly after the Gang of 908 discussions stalled, Treasury Secretary Steven Mnuchin sent an offer to Speaker Nancy Pelosi for another package. Mnuchin's plan has a $916 billion price tag and includes most of the same provisions from the Gang of 908's framework. However it does include notable differences. Mnuchin's plan includes a new round of direct payments to most Americans, with $600 for most adults and children, according to House Republican Leader Kevin McCarthy. The Mnuchin plan reduces unemployment benefits to $40 billion from $180 billion included in the competing 908 plan. Pelosi and Schumer have called the Mnuchin offer "unacceptable." They called upon Republican leaders to stay focused on the 908 plan and help pass it. McConnell called that statement "schizophrenic".

Despite the slowdown in Phase 4 negotiations, they continue to move ahead. No one has walked away. In fact, this morning the Gang of 908 released additional granularity on their plan, signifying their good faith effort to get a deal. Even McConnell said "we are looking for a way forward." However, Republican senators are now urging McConnell to take over the role as lead negotiator and want him to negotiate directly with Pelosi.

House Passes Defense Policy Bill, Veto Threat Looms

The House of Representatives passed the $740 billion National Defense Authorization Act—an annual bill which sets Pentagon policy and authorizes national security activities—by a vote of 335-78. The Senate will vote on the bill in the coming days. The bill includes a pay-raise for our troops, major investments in military equipment and training, and improved facilities at installations. A full summary of the NDAA can be found HERE.

The legislation is facing a veto threat from President Trump due to two problematic provisions. The first is a provision which sets a process to rename military installations named for Confederate military leaders. More problematic is the bill's exclusion of any "Section 230" fix which would strip online social media platforms of any legal liability for the restriction of content. Though top national security lawmakers have urged the President to not veto the bill, he intends to do so. If it is vetoed, the House and Senate would be required to attain a two-thirds plus one majority to override the veto. Though the vote in the House this week meets that threshold, the coalitions would substantially change if the question is on overriding a veto.

Water Resources Bill Poised for Final Passage

On December 8, the House approved on a voice vote S. 1811, legislation that as amended, includes the Water Resources Development Act (WRDA) of 2020. S. 1811 represents a compromise bill that has been worked out by the committees of jurisdiction in the House and Senate. Importantly, the bill includes the authorization of $325 million in federal funds for the Westminster East Garden Grove (WEGG) flood control project. The bill now goes to the Senate, where it is unclear whether the bill will be considered as a stand-alone bill or be attached to another must-pass bill.

It is important to note that for WEGG, this is an authorization and Congress will need to appropriate funds to the Corps of Engineers on an annual basis to enable federal funds to be used for the flood control project.

FEDERAL AGENCIES

Operation Warp Speed Plans for Vaccines Distribution

Leaders of Operation Warp Speed (OWS) briefed the media on the current state of their plans to distribute the various COVID-19 vaccine candidates. With the Food and Drug Administration (FDA) currently reviewing emergency use authorization (EUA) requests from both Pfizer and Moderna, the distribution plans are underway. OWS chair Dr. Moncef Slaoui and General Gustave Perna described their plans to begin administering the vaccine immediately once the EUA's are issued. They plan to administer 20 million doses in December, 30 million in January, and 50 million in February. OWS will deliver the doses to the locations the states specify in their implementation plans. Using the Tiberius platform, OWS and its partner agencies will monitor the state plans and provide a "cadence of delivery" as General Perna described it.

Advisory Committee on Immunization Practices' Interim Recommendations for Initial Supplies of COVID-19 Vaccine

An independent advisory committee within the Centers for Disease Control and Prevention known as the Advisory Committee on Immunization Practices, recommended that health care personnel and residents of long-term care facilities should be the first people offered a COVID-19 vaccine. While the recommendations are not binding, they could be influential for the states putting together their vaccination plans. CDC Director Dr. Robert Redfield accepted these interim recommendations and said he looks forward to future recommendations that, based on vaccine availability, demonstrate that we as a Nation also prioritize the elderly (>70 yo) who reside in multi-generation households.

During the meeting, the CDC advisers only voted on the very top tier, which they call "Phase 1a." The Advisory Committee on Immunization Practices is expected to refine and finalize fuller recommendations for vaccine distribution after the FDA authorizes its first shots and allows the committee to see late-stage trial data.

CDC Revises Quarantine, Travel Advice

The Centers for Disease Control and Prevention announced two alternatives to the standard 14-day quarantine for individuals potentially exposed to COVID-19. The new recommendations allow exposed individuals who have not developed symptoms to leave isolation after 10 days, or seven days if they also receive a negative test. The idea is that quarantines shorter than 14 days carry low infection risks and will bolster compliance.

The CDC also urged Americans to postpone holiday travel, citing virus risks and high travel volume during Thanksgiving, and put out new guidelines for how those who do travel can reduce the risk. Guidelines include, travelers getting tested one to three days before travel, as well as three to five days after, avoiding non-essential activities for a week after the trip, and 10 days if travelers don't get tested.

CDC Recommends Indoor Use Of Masks

The CDC said for the first time that Americans should be wearing a mask indoors whenever they're outside their own home. The recommendation came in the CDC's Morbidity and Mortality Weekly report, which cited a high-level transmission of the virus as the ongoing holiday season and colder weather have driven more people indoors. The advisory said face masks are most important in indoor spaces and outdoors when six feet of separation can't be maintained, as well as within households, when a member is infected or has had recent potential COVID-19 exposure. The guidance outlined several steps to fight the virus. Along with masks and social distancing, the list includes: Avoiding non-essential indoor spaces; increasing testing; promptly identifying, quarantining and testing close contacts of persons with COVID-19; safeguarding

persons most at risk for severe illness; supplying essential workers with adequate personal protective equipment; postponing travel; increasing room air ventilation; and, eventually, achieving widespread availability and high community coverage with effective vaccines.

HUD ESG-CV Guidance Documents

HUD released guidance documents for staffing options and procurement strategies for COVID-19 Emergency Solutions Grants (ESG-CV). The ESG-CV program provides funding to prevent, prepare for, and respond to COVID-19, among individuals and families who are homeless or receiving homeless assistance and to support additional homeless assistance and prevention activities to address challenges worsened by COVID-19. The staffing document can be viewed here and the procurements strategies document can be viewed here.

If you or your staff have any questions or require additional information on any of the items in this bulletin, please contact Peter DeMarco at 714-834-5777.

ATTACHMENT A

DRAFT



LEGISLATIVE PLATFORM 2021-2022

TABLE OF CONTENTS

I. INTRODUCTION 2

II. ORANGE COUNTY MAP 3

III. GUIDING PRINCIPLES 4

IV. PROPERTY TAX ALLOCATION 5

V. ORANGE COUNTY: BY THE NUMBERS 6

- ORANGE COUNTY DEMOGRAPHICS
- HOMELESS POPULATION
- CITY HEALTH OUTLOOK
- GENERAL RELIEF
- MEDI-CAL AND CALFRESH
- IN HOME SUPPORTIVE SERVICES (IHSS)
- VETERANS SERVED
- MENTAL HEALTH IN JAILS
- CRIME STATISTICS
- OPIOID CRISIS

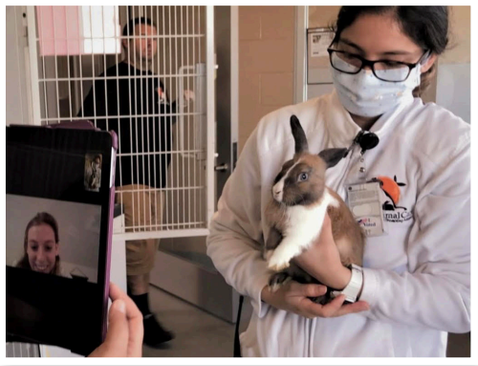
VI. LEGISLATIVE PROGRAM AREA MATRICES 12

- GENERAL GOVERNMENT SERVICES
- PUBLIC PROTECTION
- COMMUNITY SERVICES
- INFRASTRUCTURE AND ENVIRONMENTAL RESOURCES









INTRODUCTION

The Orange County Board of Supervisors recognizes the need to identify and advocate for its legislative and funding priorities in Sacramento and Washington, D.C. To be effective in this mission, the Board is pleased to present its 2021-2022 Legislative Platform.

This document includes the Board's top state and federal legislative priorities and new bill requests for which legislators are sought to carry proposed legislation on the County's behalf. It also provides general direction to the County Executive Office and County departments, legislative advocates, state and federal delegation members and the public on positions of support or opposition to key policy initiatives which impact the way the County does business.

Because the Legislative Platform is approved prior to the beginning of each two-year state and federal legislative session, it is not always possible to anticipate additional legislative, regulatory and/or budgetary issues that may arise at a later date. Thus, the Board may review and modify this document during the two-year legislative session as necessary.

BACKGROUND

Incorporated in 1889, the County of Orange spans nearly 800 square miles and includes 42 miles of coastline. There are 34 cities in the County and several unincorporated areas. Of the 58 counties in California, Orange County ranks third in population with more than 3 million people. It is also the fifth-most populous county in the United States.

A five-member Board of Supervisors, each elected to four-year terms in district nonpartisan elections, serves as the legislative body of the County, which functions under a Charter adopted in 2002. The Board governs the following:

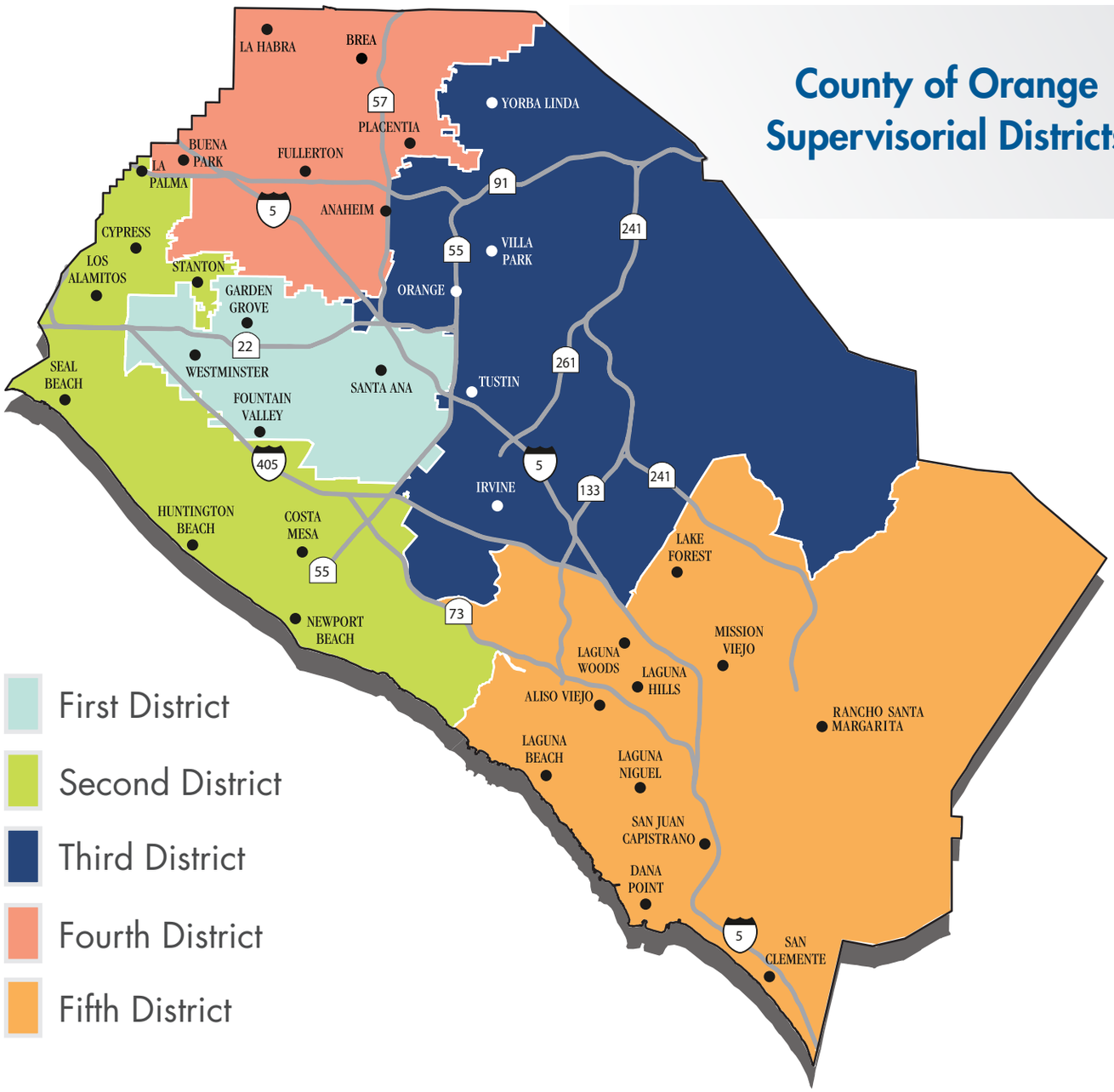
All Assessment Districts, All Community Facilities Districts, All Reassessment Districts, Housing and Community Development Commission, Housing Successor Agency to the Orange County Development Agency, In-Home Supportive Services Public Authority, Industrial Development Authority For Orange County, Local Redevelopment Authority, Former Marine Corp Air Station (MCAS) El Toro, Orange County Financing Authority, Orange County Flood Control District, Orange County Housing Authority, Orange County Housing Authority Acting As the Housing Successor Agency, Orange County Public Financing Authority, Orange County Special Financing Authority, South Orange County Public Financing Authority, and the Successor Agency to the Orange County Development Agency.

The County is a regional service provider committed to maximizing resources and improving the quality of life for its residents. The County's primary goal is the effective and efficient delivery of services of its core business areas: Aviation, Environmental Protection, Public Assistance, Public Health, Public Safety, Regional Planning and Social Services. There are 26 agencies and departments including:

> Assessor*, Auditor-Controller*, Board of Supervisors*, Child Support Services, Clerk of the Board, Clerk-Recorder*, County Counsel, County Executive Office, County Procurement Office, Ethics Commission, District Attorney*, Health Care Agency, Human Resources Services, Independent Review, Information Technology, Internal Audit, John Wayne Airport, OC Community Resources, OC Public Works, OC Waste & Recycling, Probation, Public Defender, Registrar of Voters, Sheriff-Coroner*, Social Services Agency and Treasurer-Tax Collector*. *(* indicates elected official departments)*

The County Executive Officer is appointed by the Board and directs the County's day-to-day government operations. The Chief Financial Officer is responsible for presenting the Board with a Recommended Budget for consideration of adoption as the Final (Adopted) Budget, which serves as the foundation of the County's financial planning and control. The County employs approximately 18,000 permanent full-time employees and the General Fund budget for FY 2019-20 is $6.8 Billion.

ORANGE COUNTY MAP



❖ GUIDING PRINCIPLES

The Board's four guiding principles are reflected throughout the 2021-2022 Legislative Platform:

Local Government Funding/Cost Recovery

The County supports efforts to require the state or federal government to fully reimburse the County for all costs related to mandated programs, including costs incurred from COVID-19. The County will oppose efforts to raise local taxes to pay for new state or federal programs, efforts to redirect existing revenue streams away from mandated programs administered by the County, or expansion of service provisions without commensurate funding.

Local Control

The County supports efforts that maintain local discretionary control over its governance issues and delivery of services. This includes having flexibility to administer federal, state or local funding and programs, as well as maintaining decision-making authority over local land use.

Funding Equity

The County supports equitable, dependable and predictable revenue streams to local governments that address equity among counties based on specified metrics.

Operational Efficiency

The County supports proposals that encourage utilizing technology and innovation to streamline County Services. Furthermore, changes to state or federal law must not negatively impact the County's operational efficiency. The County strongly supports efforts to eliminate unnecessary, redundant, or overlapping requirements or regulations for program eligibility, funding maintenance of efforts, monitoring, permitting or reporting.

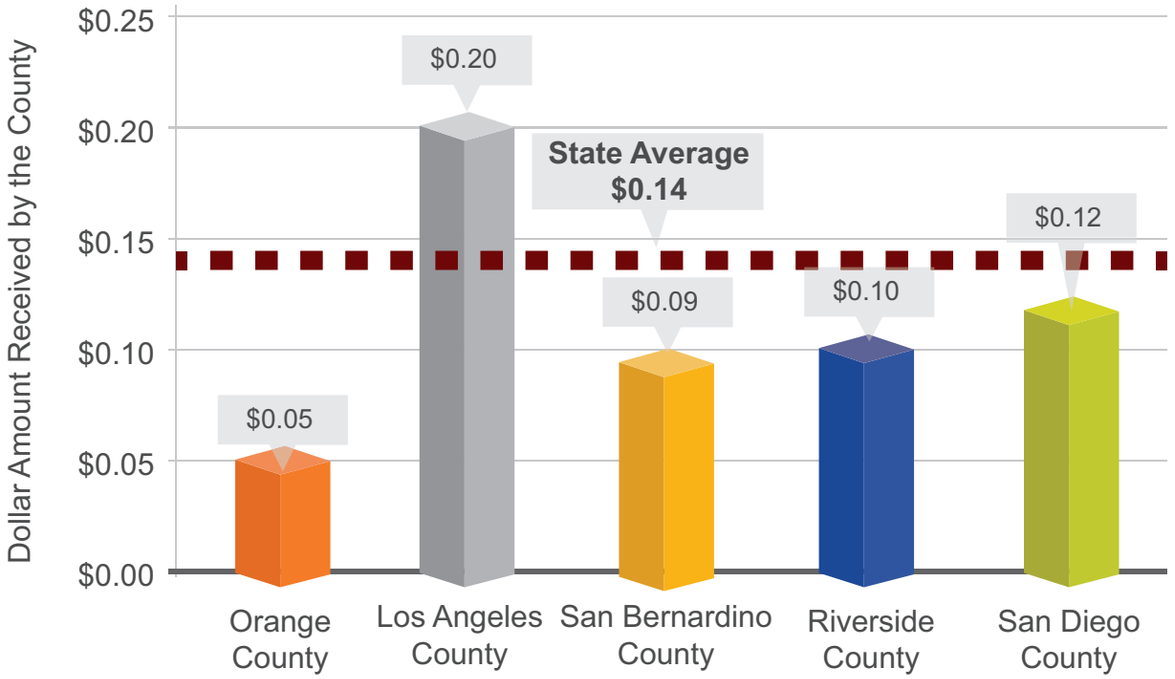




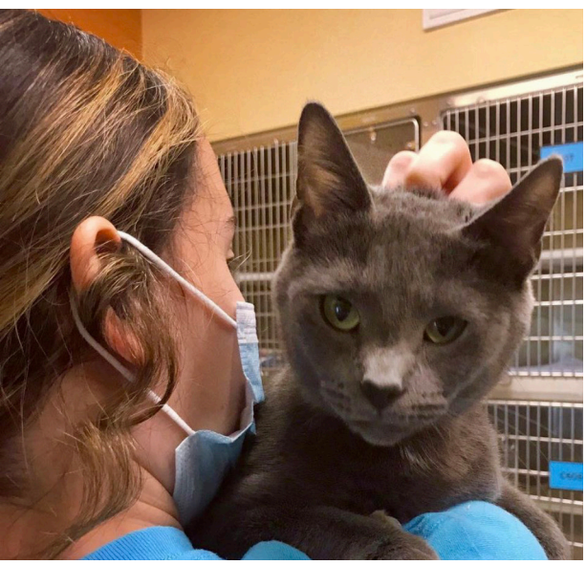
PROPERTY TAX ALLOCATION

In 1978, Assembly Bill 8 set the formula for each California County's property tax allocation based on population. Since then, Orange County's population has nearly doubled, but our property tax allocation remains unchanged. Property tax revenue is Orange County's largest source of income for funding mandated and discretionary programs for its residents. As of 2020, Orange County receives five cents of every property tax dollar, the lowest amount of all its peers. While Orange County faces one of its greatest economic challenge in 2021 and beyond, this structural inequity continues to put both the County and its residents at a disadvantage in receiving and providing critical services.

GENERAL PROPERTY TAX DOLLAR ALLOCATION, BY SELECTED COUNTIES 2019-2020



Source: https://boe.ca.gov/DataPortal/dataset.htm?url=PropTaxGenPropTaxLevies

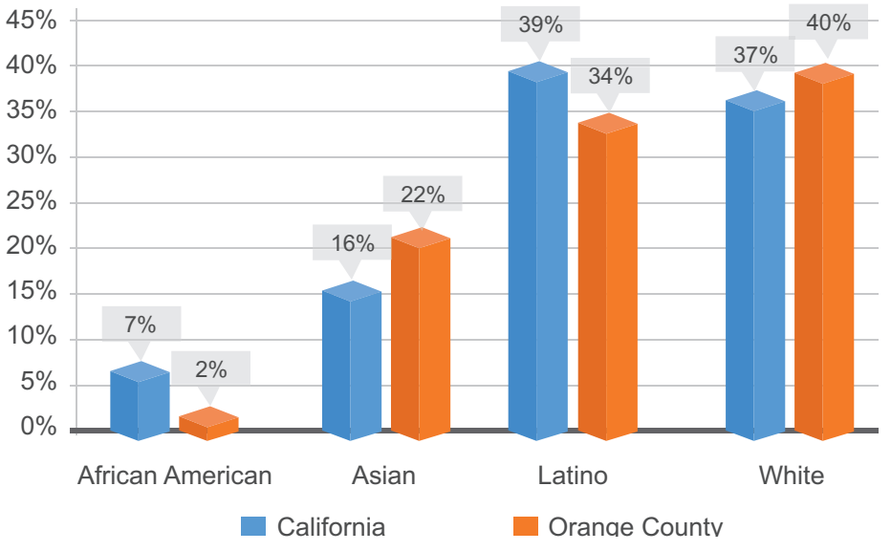




ORANGE COUNTY: BY THE NUMBERS

Orange County's senior population also continues to increase and may be the only age group to see growth between 2020 and 2060, at which point they are projected to represent 25 percent of the county's population. As the County's population continues to grow, the high cost of living continues to be an issue for our residents. Hence, vital county services are needed more than ever to continue supporting the needs of our residents.

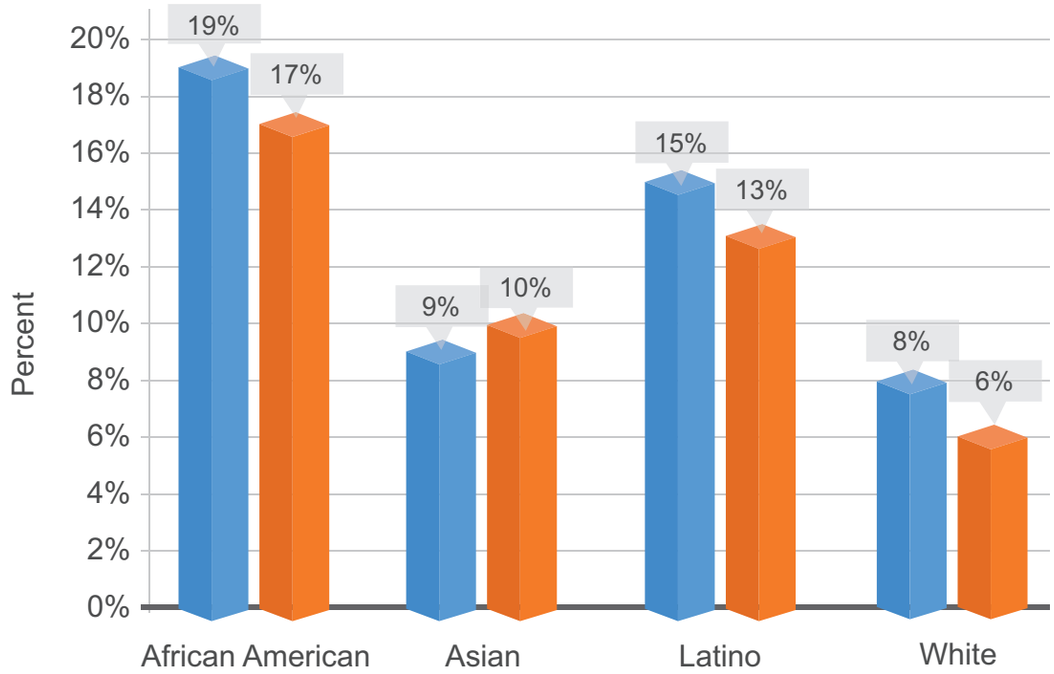
OC DEMOGRAPHICS 2019



Source: U.S. Census Bureau



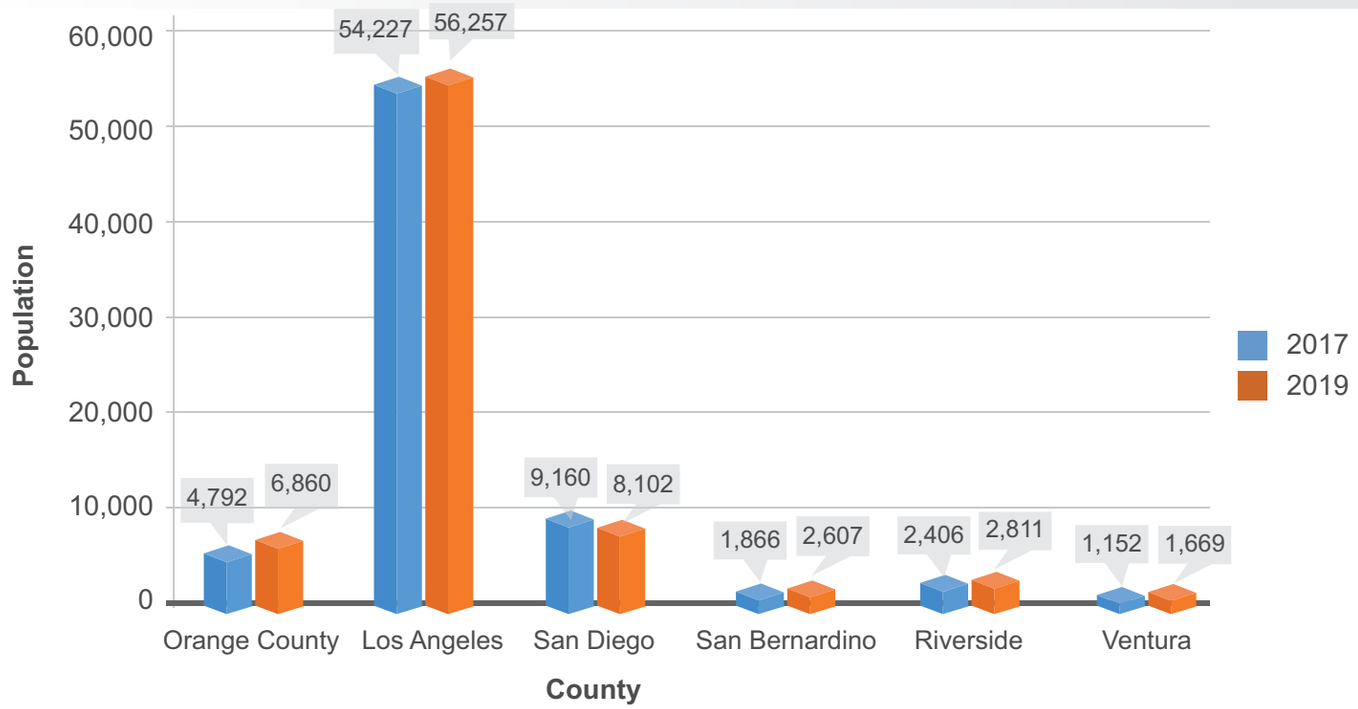
OC POVERTY BY RACE AND ETHNICITY: LIVING BELOW POVERTY LEVELS 2019



Source: U.S. Census Bureau 2019 American Community Survey

POINT IN TIME HOMELESS POPULATION BY COUNTY 2017-2019

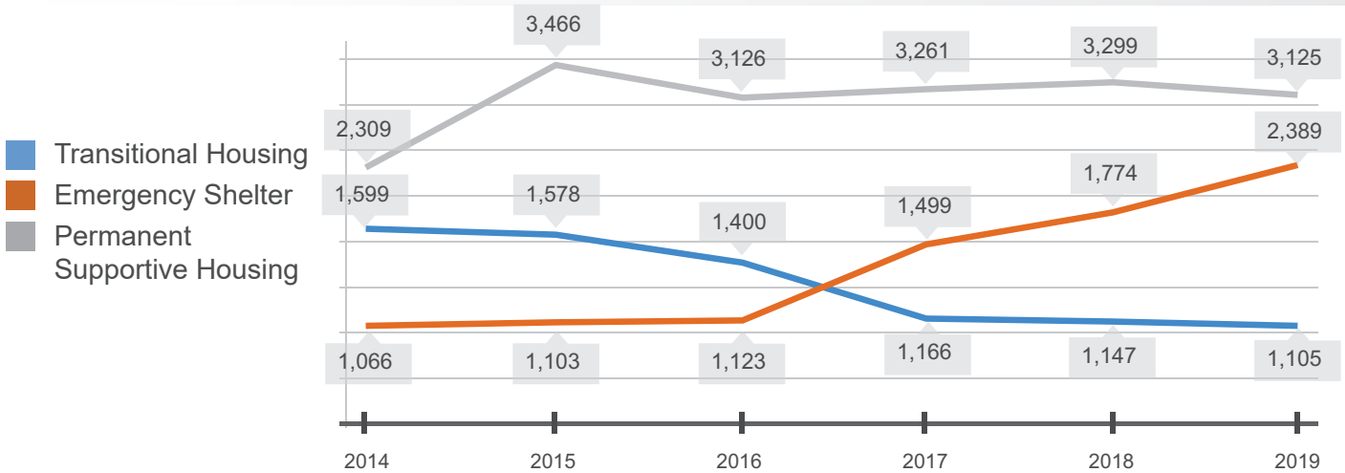
In 2019, Orange County implemented a new point in time methodology utilizing State compliant technology to gather a more robust, comprehensive, and accurate count of our homeless population. This ensured that unsheltered families who are often underrepresented in our community were accurately accounted for.



Source: https://www.hudexchange.info, 2019 Point-In Time Count

ORANGE COUNTY HOMELESS ASSISTANCE HOUSING INVENTORY 2019

The decline in transitional housing is due to U.S. Housing and Urban Development (HUD) emphasis on Rapid Re-Housing, which rapidly connects homeless families and individuals with permanent housing through various services such as financial assistance and targeted supportive services. In the last five years, the County has provided an additional 1,286 emergency shelter beds to its homeless population. In 2018, the Housing Funding Strategy initiated by the Orange County Board of Supervisors established the need to create 2,700 new supportive housing units and an additional 2,700 affordable units before June 2025.



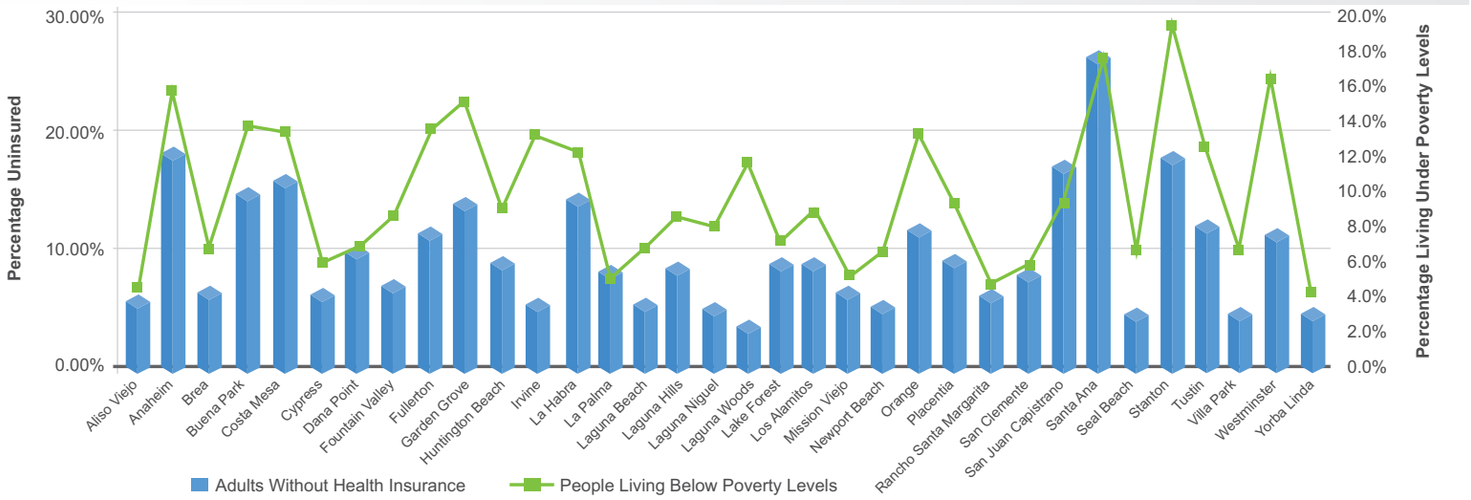
** permanent supportive housing (includes rapid rehousing and other permanent housing)*

Source: www.hudexchange.info/programs/coc/coc-housing-inventory-count-reports

CITY HEALTH OUTLOOK: ADULTS WITHOUT HEALTH INSURANCE AND PEOPLE LIVING BELOW POVERTY LEVELS

The chart below displays the percentage of County residents between the ages of 19-64 years old that do not have health insurance along with the percentage of those living under poverty levels within each reported city. With the high cost of medical care, those without health insurance may not be able to afford medical treatment or prescription drugs. They are also less likely to get routine checkups and screenings, meaning treatment is often not sought quickly enough resulting in more advanced diagnosis and costly treatments.

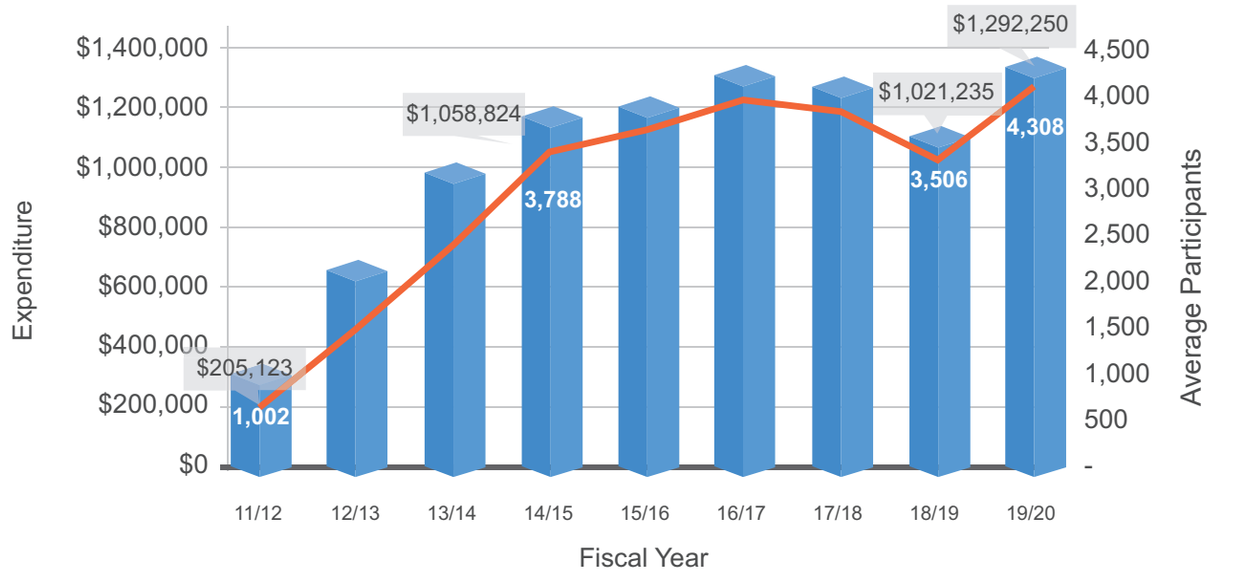
The data below is collected by the American Community Survey 2014-2018 and reflects those who participated in the survey.



Source: OC Healthier Together, American Community Survey 2014-2018

GENERAL RELIEF PROGRAM

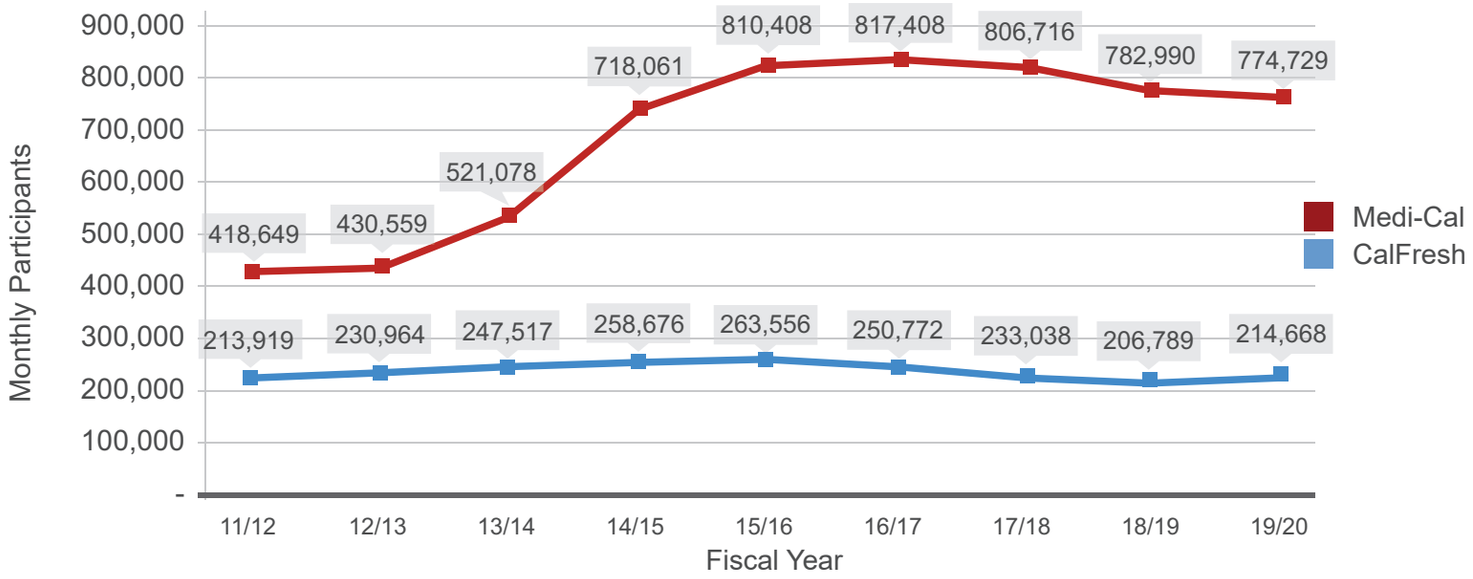
The general relief program provides temporary cash assistance to those in need and is funded entirely by the County. Between fiscal year 2014/2015 through 2019/2020 annual expenditures to support this program have increased by 22%, while the monthly participants have also continued to increase by approximately 14%.



Source: https://www.fbi.gov/services/cjis/ucr

MEDI-CAL AND CALFRESH ENROLLMENT

In times of need, such as the COVID-19 pandemic, our residents turn to critical services such as Medi-Cal and CalFresh to provide them with much needed support. As of June 2020, almost 1 million County residents are enrolled in both Medi-Cal and CalFresh on a monthly basis.

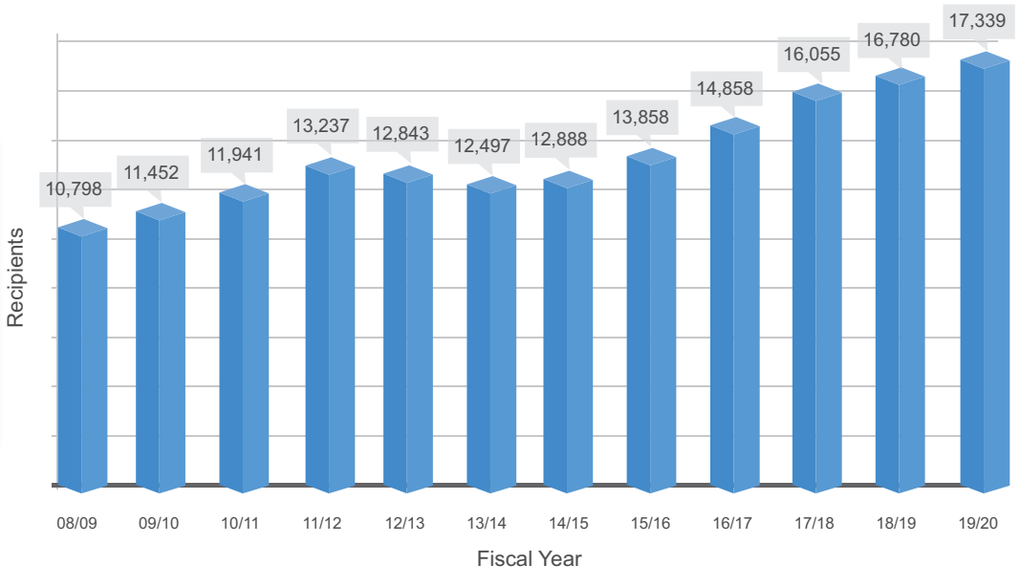


Source: Orange County Social Services Agency

IN-HOME SUPPORTIVE SERVICES (IHSS) RECIPIENTS

The U.S. census reports that Orange County's 65 and older age group will grow faster than any other age group in the County. The need for supportive services for the senior and disabled population continues to be in high demand. The chart below displays a 35% increase in IHSS recipients between fiscal years 2014/2015 and 2019/2020.

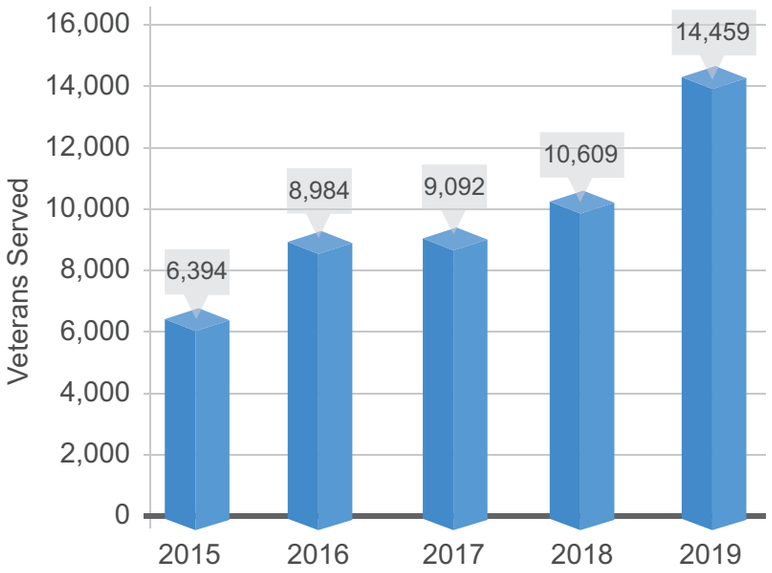




Source: Orange County Social Services Agency

VETERANS SERVED

Despite ongoing budget challenges, the Board has maintained funding for the OC Veterans Service Office (OCVSO) at nearly $1.5 million for the last three years and added new staff positions to serve our estimated 116,000 veterans who live in Orange County. Services provided include filing claims to the US Department of Veterans Affairs, college fee waiver applications, DMV certifications and securing award payments. As of 2019, the OCVSO has filed over 18,100 claims.



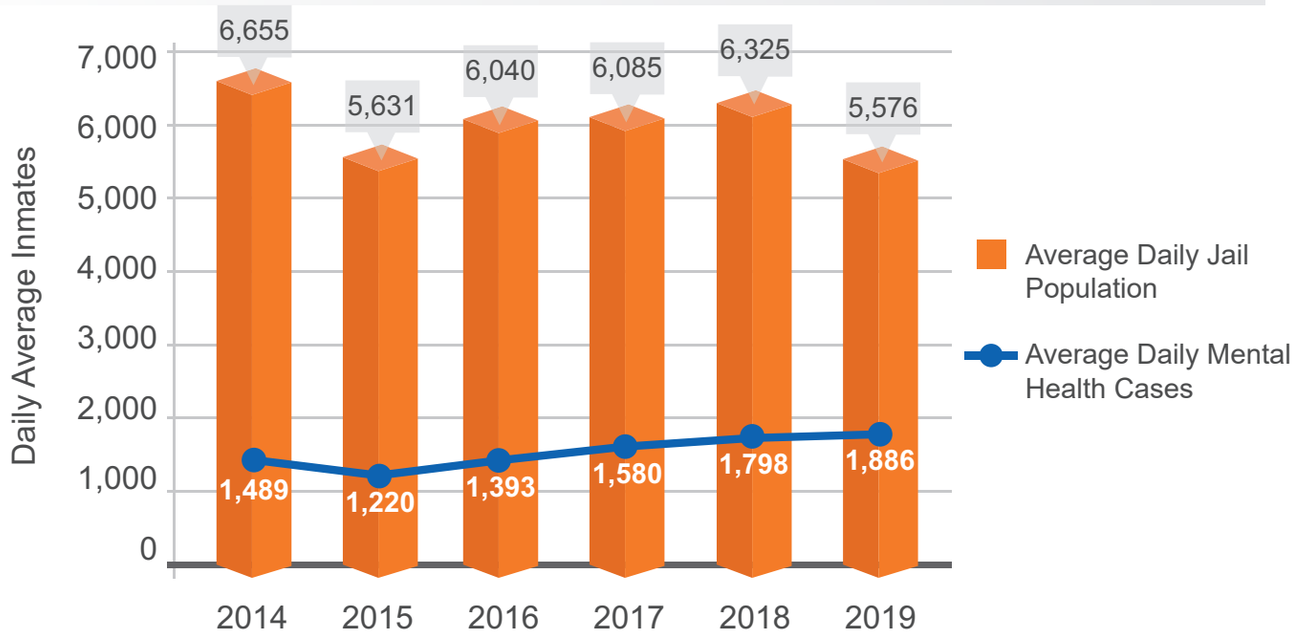


Veterans Served

Source: Orange County Veterans Services Office

MENTAL HEALTH CASES IN JAILS 2014-2020

By default, the Orange County Jail has become the largest mental health facility in the county. Unfortunately, this population continues to cycle in and out of the jail system multiple times throughout the year. To address this dilemma, the County has developed a 2025 Vision for the Community Corrections System that will be achieved through its implementation plan, the Integrated Services Strategy.

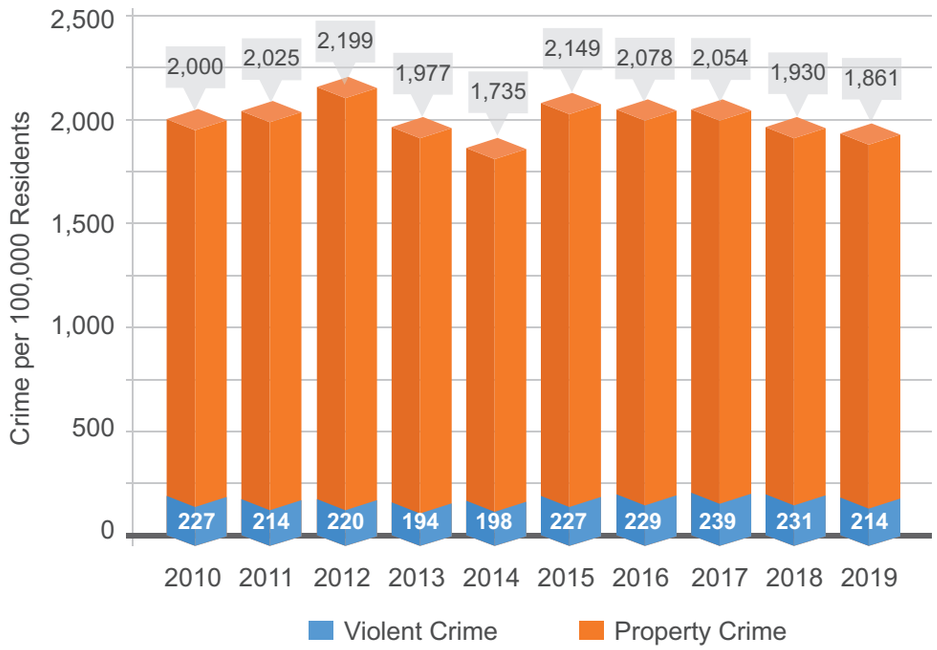


Source: OC Health Care Agency and OC Sheriffs Department.

PROPERTY AND VIOLENT CRIME RATE

Violent crime data includes murder, non-negligent manslaughter, forcible rape, robbery and aggravated assault. Property crime data includes burglary, larceny-theft and motor vehicle theft.

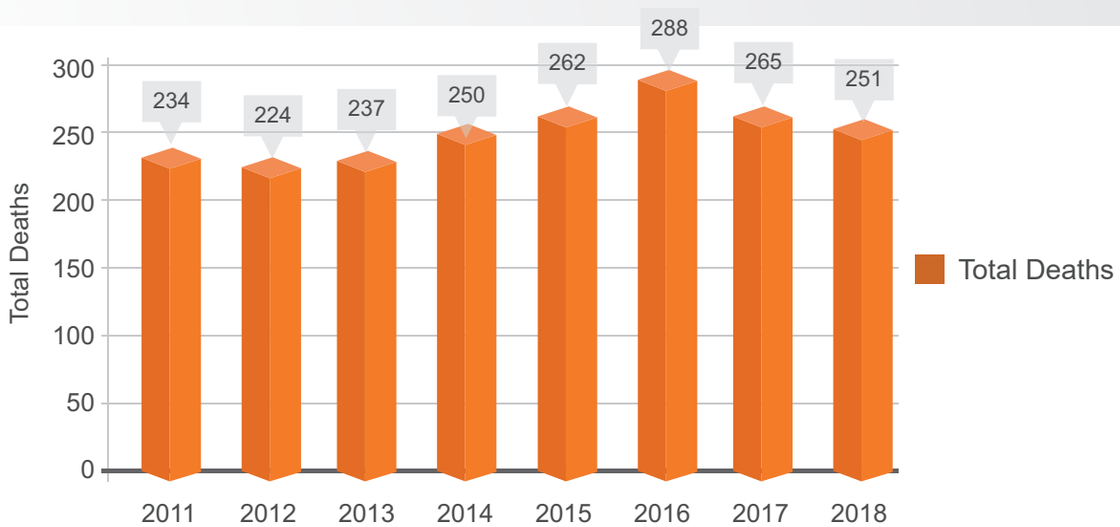
The data shown in the chart below does not reflect county totals for property and violent crime, but does provide the volume of offenses. This data shows the number of offenses reported by metropolitan law enforcement agencies, including the Sheriff's Department and local police departments.



Source: https://www.fbi.gov/services/cjis/ucr

OPIOID RELATED OVERDOSE DEATH RATES 2011-2018

In 2018, nearly 1.5 million opioid prescriptions were dispensed to Orange County residents, this is down from an average of 1.7 million over the past three years. Despite the recent decline in opioid related emergency department visits, hospitalizations and overdose deaths, seven out of every ten drug related deaths in the county involve opioids and prescription opioids account for nearly half of opioid overdose deaths.



Source: OC Health Care Agency

GENERAL GOVERNMENT SERVICES

Policy Statements

Issue	Summary/Action Item	Department	State/Federal
Access For Voters	Promote and increase voter registration and access to the ballot for as many eligible voters as possible.	Registrar of Voters	State
Affirmative Action	Oppose legislation that will bring back affirmative action and not consider hard work and merit as the primary criteria for evaluating applications for public employment and college admissions	Board of Supervisors	State/Federal
Bonds & Funding Measures	Support an equitable disbursement of state and federal funding in all bond and funding measures affecting the County.	All	State/Federal
Burdensome Regulatory Requirements	Support rulemaking that minimizes burdensome requirements and legal obstacles, takes into consideration the various environments of the state and minimizes duplicative or contradictory regulations.	All	State/Federal
Business Tax	Support legislation that allows unsecured business taxes to be treated similar to sales tax when businesses are sold.	Treasurer Tax Collector	State
Census	Support efforts to help to ensure a complete, fair, and accurate count in the 2020 Census.	County Executive Office	Federal
County Revenue	Oppose efforts to decrease, eliminate, divert, supplant or restrict local autonomy of local revenues.	All	State/Federal
COVID-19	Provide authority to support any legislative or budgetary action related to the response, recovery and/or economic impacts of COVID-19 both during the emergency and the long-term effects of the pandemic.	All	State/Federal
Drones	Support legislation that gives counties the right to reasonably regulate drone flights within their jurisdictions.	County Executive Office	State/Federal
Economic Growth and Development	Support efforts to promote job growth and economic development.	All	State/Federal
Election Services	Provide adequate funding to administer election services.	Registrar of Voters	State
Employee/Labor	Support full cost recovery for salary, benefits and administration for all employee relationships and protect and enhance flexibility and local control over employee and labor relations issues.	County Executive Office	State
Funding Flexibility	Support efforts that enhance funding flexibility and oppose efforts to eliminate or redirect revenues currently dedicated to local governments.	All	State/Federal
Gas Tax	Oppose hidden gas taxes and other similar regulatory schemes.	County Executive Office	State

GENERAL GOVERNMENT SERVICES Continued

Issue	Summary/Action Item	Department	State/Federal
Grant Funding Restrictions	Support efforts to ensure local governments are not restricted from applying for or receiving grant funding.	County Executive Office	State/Federal
Independent Contractors	Help individuals achieve self-sufficiency by opposing efforts to restrict the use of Independent contractors by businesses in the County of Orange	Board of Supervisors	State/Federal
Local Control	Oppose legislation that does not recognize California's diversity and the need for local government's autonomy in addressing the problems and services of our residents.	All	State/Federal
New Voting System	Support legislation that establishes avenues and consistent funding mechanisms for the creation and/or acquisition of new voting systems.	Registrar of Voters	State/Federal
Privacy/Security	Support efforts to protect non-public information that is collected electronically by the County in compliance with various state and federal laws and local ordinances.	Treasurer Tax Collector/Assessor	State/Federal
Program Efficiency	Support efforts that promote the efficient administration of program services and benefits, as well as increase access and improve customer service.	All	State/Federal
Property Tax Funding Equity	Support a more equitable reallocation of property tax revenue to county government that provides funding for countywide public services reflecting an allocation that is in line with similarly urbanized counties.	County Executive Office	State
Property Tax Revenue	Protect local property tax revenues and oppose any measure aimed at reducing the protections afforded to the County.	County Executive Office	State
Proposition 172	Protect the County's Proposition 172 funding allocation.	County Executive Office	State
Public Pensions	Support efforts for local officials to manage pension systems that meet the needs of their workforce and demonstrate sound fiduciary management.	County Executive Office	State
Public Pension Waiver	Seek waiver on IRS Rev. Rul. 2006-43 to allow county employees to elect alternative pension plans.	County Executive Office	Federal
Public Private Partnership	Support legislation that would provide additional avenues for generation of revenue from existing public property, through public-private partnerships or otherwise, which could be used to support and implement public programs or to defer costs of new public buildings or infrastructure.	County Executive Office	State
Reallocation of Tax Revenue	Oppose the shifting of tax revenues and tax increment from the County to the State or other local entities or special districts.	County Executive Office	State

GENERAL GOVERNMENT SERVICES Continued

Issue	Summary/Action Item	Department	State/Federal
Reciprocity	Support efforts to establish an intercept tax program in partnership with local governments.	Treasurer Tax Collector	State/Federal
Regulatory Review Processes	Support efforts, including streamlining and simplification, that facilitate timely and efficient regulatory review and permitting for public agency/ government projects, and increased coordination among federal and state agencies, while upholding environmental, health and safety, public protection, and other important standards.	All	State/Federal
Split-Roll Prop 13	Oppose split-roll and other efforts to harm Proposition 13.	County Executive Office	State
State & Federal Mandates	Support full funding to ensure that state and federal mandates are cost-neutral to the County and pursue revisions to streamline the process for local government.	All	State/Federal
State/Federal Realignment & Cost-Shifts	Oppose proposals to restructure, realign, or otherwise shift the cost of programs to local government, without commensurate compensation.	All	State/Federal
Stimulus Package Money	Support legislation to bring stimulus money from the federal government to the County of Orange.	Board of Supervisors	State/Federal
Technology	Support funding, use of technology, and technological advances to increase efficiency and expand/expedite access to services and benefits offered by County agencies and its agents.	All	State/Federal
Tustin Blimp Hangars	Support conveyance of Tustin North Blimp Hangar, and the surrounding property, in a condition and with covenants acceptable to the County.	County Executive Office	Federal
Tustin/El Toro Military Bases	Support expedited resolution of remaining issues at the closed Tustin and El Toro military bases to facilitate conveyance of land to the County, per the requirements of the Base Realignment and Closure Act.	County Executive Office	Federal
Unfunded Actuarial Accrued Liability	Support legislation that requires full payment of unfunded actuarial accrued liability for active and retired employees enrolled in the Orange County Employee Retirement System if a public agency withdraws from Orange County Fire Authority.	County Executive Office	State
Voter Threshold	Oppose efforts to reduce the voter threshold necessary to increase taxes and fees.	County Executive Office	State

❖ PUBLIC PROTECTION
Policy Statements

Issue	Summary/Action Item	Department	State/Federal
Aging Juvenile Facilities	Support efforts to improve existing juvenile facilities and provide resources for infrastructure changes required by legislative mandates.	Probation	State
Appeals Process	Support reforms to streamline the appeals process in criminal cases, including those cases involving special circumstances.	District Attorney	State
Court Appointed Dependency Counsel Funding	Support legislation or administrative action to fully fund optimal caseloads for dependency attorneys.	Public Defender	State
Court Security	Support funding for court security efforts.	County Executive Office	State/Federal
Court Services	Support measures that increase accessibility to court-related services for vulnerable adults and at-risk youth.	Social Services Agency	State/Federal
Criminal Justice Sentencing	Support restoration of accountability to the criminal justice system by ensuring sentences are fully carried out and sufficiently addresses the significance of each crime.	Sheriff's Department/ County Executive Office/District Attorney	State/Federal
Custody Operations	Support funding for construction, modernization, and staffing of adult criminal justice facilities that will meet needs created by realignment and address long-term sentences in county jails.	Sheriff's Department	State
Driving Under the Influence of Drugs	Support efforts to increase penalties for driving under the influence and resources for programs, which will assist in driving under the influence of drugs prevention efforts.	County Executive Office/District Attorney	State
Fusion Center	Support increased federal and state funding for fusion centers.	Sheriff's Department/ District Attorney	State/Federal
Homeland Security	Support increased coordination on homeland security and emergency response efforts among federal, state, and local governments with clearly defined roles and responsibilities for each.	Sheriff's Department/ District Attorney	State/Federal
Human Trafficking	Support efforts to prevent sexual assault, human trafficking, and related crimes.	County Executive Office/District Attorney/Social Services Agency	State/Federal
Law Enforcement Collaboration	Oppose efforts to restrict local law enforcement from collaborating with state and federal agencies on addressing shared public safety threats.	Sheriff's Department	State/Federal
Marijuana Regulation Enforcement	Support adequate resources to address enforcement issues related to marijuana.	Sheriff's Department	State/Federal

PUBLIC PROTECTION Continued

Issue	Summary/Action Item	Department	State/Federal
Marsy's Law	Seek funding for Marsy's Law victim services.	County Executive Office/District Attorney	State
Opioid Epidemic	Support efforts to address the illicit use of opioids and hold accountable those who illegally sell and distribute them.	Sheriff's Department/ District Attorney	State
Public Administrator	Support legislation or administrative action, which would reaffirm existing authority under Probate Code section 2900-2903, authorizing the Public Administrator to access vital information from financial institutions allowing deputies to properly administer their cases.	District Attorney	State
Public Administrator Judicial Responsibilities	Support legislation or administrative action which would emphasize the importance of the Public Administrator's judicial responsibilities under Probate Code section 7600-7604, authorizing deputies to perform duties to protect individuals and potential victims.	District Attorney	State
Public Safety	Support a public safety system that promotes local law enforcement services, crime prevention, prosecution of crime, confinement of high-risk adults, and evidence-based programs aimed at rehabilitation and lowering the recidivism rate.	County Executive Office/District Attorney	State/Federal
Public Safety Realignment	Protect existing funding and support continued funding for AB 109 public safety realignment.	County Executive Office/District Attorney	State
Recidivism	Seek funding to support both in-custody programming and facilities in order to enhance the County's rehabilitation and treatment programs for inmates.	Sheriff's Department/ District Attorney	State/Federal
Treatment Capacity	Support funding for recidivism reduction efforts in adult and juvenile offenders, further enhancing the county's ability to collaborate with and expand funding for partnerships with non-governmental/community-based organizations.	Probation/District Attorney	State/Federal
Victims' Rights	Support victims' rights programs and services for victims of crimes.	County Executive Office/District Attorney	State

COMMUNITY SERVICES

Policy Statements

Issue	Summary/Action Item	Department	State/Federal
Adult Services	Support efforts to increase resources and services available to adults who are unable to live independently, or who are victims or at-risk of abuse/neglect, and the individuals who provide them with care.	Social Services Agency	State/Federal
Adult Services Evaluations	Support efforts to remove obstacles to the efficient and thorough assessment of allegations of abuse and neglect of adults who are unable to live independently or are at-risk of abuse/neglect.	Social Services Agency	State/Federal
Affordable Care Act	Support health care policy implementation efforts that do not have an adverse financial impact on the County.	County Executive Office	Federal
Animal Care Shelter	Support funding for regional animal shelter facility maintenance and programs.	OC Community Resources	State
Animal Cruelty	Support stronger penalties for those convicted of animal abuse.	OC Community Resources	State
Broadband Access	Support legislation to provide funding for high-speed, high capacity broadband.	OC Community Resources	State/Federal
Caseload Growth and Funding for Services	Secure equitable and consistent funding to sufficiently support caseload growth, regulatory changes, and other related administrative costs.	Social Services Agency	State/Federal
Child Care	Support measures that enhance the overall quality, affordability, capacity, accessibility, and safety of childcare and development programs.	Social Services Agency	State/Federal
Child Support Services	Support legislation, budget, or administrative action to adequately fund child support service programming.	Child Support Services	State
Child Welfare Caregiver Resources & Services	Support legislation that increases services and resources for caregivers of children and former foster youth who are victims of, or at risk of abuse, neglect, or exploitation.	Social Services Agency/Probation	State/Federal
Child Welfare Funding	Support child welfare funding reform efforts that increase eligibility for federal and state funds under programs that include, but are not limited to Title IV-E.	Social Services Agency	State/Federal
Child Welfare Resources, Services, & Placements	Support legislation that increases and supports appropriate short and long-term placements, services, and resource options for children and former foster youth who are victims of, or at risk of abuse, neglect, or exploitation.	Social Services Agency/Probation	State/Federal
Disaster Response	Support measures that increase resources for disaster response initiatives requiring county involvement.	Health Care Agency/ Social Services Agency/Sheriff's Department	State/Federal
Expanded Subsidized Employment	Improve local control and efficacy by allowing counties flexibility to utilize funds for expanded subsidized employment.	Social Services Agency	State

COMMUNITY SERVICES Continued

Issue	Summary/Action Item	Department	State/Federal
Flat Funding	Support additional funding for the Older Californians Act and other programs that assist older adults and caregivers.	OC Community Resources/Social Services Agency	State
General Assistance Funding	Support state funding for general assistance programs.	Social Services Agency	State
Health & Wellness	Support measures that protect the public against disease and disability and promote health.	Health Care Agency	State/Federal
Homeless Prevention	Support efforts to develop permanent supportive housing and affordable housing.	Health Care Agency/ OC Community Resources	State/Federal
Hospitalization Rates	Support legislation that would cap hospitalization rates for county inmates at the federal government standard (Medicare and/or Medi-Cal rates).	Health Care Agency	State
In-Home Supportive Services (IHSS)	Support legislation that promotes the financial sustainability of the In-Home Supportive Services Program through programmatic changes and appropriate cost sharing mechanisms between the State and counties.	Social Services Agency	State
Independent Living	Support measures that enable seniors and the adult disabled population to obtain affordable housing, including funding and approval of senior housing projects, and continue to maintain seniors as a priority group in the housing voucher program.	OC Community Resources	State/Federal
Inmate Medical/ Mental Health Care	Continue efforts to maximize reimbursement of inmate health care both inside the jail and for outside community services.	Health Care Agency	State/Federal
Library E-rate	Support discounts for eligible public libraries on internet access, telecommunications, Wi-Fi equipment, and related costs.	OC Community Resources	Federal
Library Funding	Support library funding and budget enhancements to maintain, expand or develop new services, and safely keep communities connected and informed.	OC Community Resources	State/Federal
Library Literacy Program	Support efforts to ensure that training and resources are available to help libraries provide literacy programs and services, specifically in the areas of education and social services.	OC Community Resources	State
Library Resource Sharing	Support legislation that seeks to expand public library consortiums and networks to improve the availability of services and increase access to digital content for all California citizens.	OC Community Resources	State
Low and Moderate-Income Housing	Support efforts to streamline funding, construction processes, and land use regulations, which expedite the development of low- and moderate-income housing units and allow local governments to adequately plan to meet the housing needs of all economic segments of the community.	OC Community Resources/ OC Public Works	State/Federal

COMMUNITY SERVICES Continued

Issue	Summary/Action Item	Department	State/Federal
Proposition 63	Preserve the allocation of Proposition 63 funds to the County and provide more flexibility in the use of such funds by the County.	Health Care Agency/ OC Community Resources	State
Self-Sufficiency	Provide equitable and sufficient funding, services, and resources to help individuals and families achieve self-sufficiency.	Social Services Agency	State/Federal
Sober Living Homes	Support restrictions on sober living homes and oppose loosening guidelines on expansion of sober living homes in the County of Orange.	County Executive Office/District Attorney/Board of Supervisors	State/Federal
Spay/Neuter	Support funding for spay/neuter education, vouchers, and clinics.	OC Community Resources	State
Substance Use Disorder and Mental Health Services	Support efforts to increase accessibility and funding for quality substance abuse and/or mental health services for children, adults, families, and incarcerated individuals.	Health Care Agency/ Social Services Agency	State/Federal
Veterans	Support programs and funding that address the specific needs of veterans.	OC Community Resources	State/Federal
Veterans Claims Process	Support increased access to veterans' affairs database, as well as training and funding for VSO claims officers to retrieve claim award information.	OC Community Resources	Federal
Veterans Housing	Support funding and approval of veteran housing projects and continue to maintain veterans as a priority group in the housing voucher program.	OC Community Resources	State/Federal
Veterans Services	Support efforts to increase operating funding for county veterans service offices to assist veterans and their families with accessing the maximum VA benefits they are entitled to, and reduce the federal veterans' claims backlog by creating more efficient federal, state, and local government coordination for veterans' claims development.	OC Community Resources	Federal
Work Participation Credit	Support efforts to provide states and localities administering the California Work Opportunity & Responsibility to Kids program partial work participation credit for participants.	Social Services Agency/ OC Community Resources	State/Federal
Work Participation Requirements	Support efforts to align state California Work Opportunity & Responsibility to Kids requirements with the provisions of the Federal Temporary Assistance for Needy Families program and protect the County from fiscal sanctions for non-compliance stemming from the discrepancies between federal and state requirements.	Social Services Agency	State/Federal

INFRASTRUCTURE & ENVIRONMENTAL RESOURCES

Policy Statements

Issue	Summary/Action Item	Department	State/Federal
Airport Exit Lanes	Oppose any transfer of administrative, financial, and/or operational responsibility for exit lane screening from the Transportation Security Administration to John Wayne Airport.	John Wayne Airport	Federal
Airport Ground Transportation	Support ground transportation-related measures that ensure passenger safety, protect the County's resources and property, and treat all ground transportation providers serving John Wayne Airport fairly and equitably.	John Wayne Airport	State
Alternative Project Delivery	Support legislation that gives local governments and agencies greater flexibility to use alternative project delivery methods such as construction manager-at-risk, design-build, and job order contracting.	OC Public Works	State
Banning Specified Waste	Oppose banning materials from landfill disposal or transformation/conversion technology facilities.	OC Waste and Recycling	State
Beach Preservation and Coastal Funding	Support state and federal funding for beach nourishment, coastal erosion control, and shoreline and beach preservation. Support dedicated and predictable funding for coastal flood risk and storm damage reduction projects. Additionally, support sharing of federal outer continental shelf revenues with coastal states to support conservation and wildlife protection programs.	OC Public Works/ OC Community Resources	State/Federal
Bridge Funding	Support proposals that maintain the same level of funding for bridges as in previous years and oppose any formula that would provide an inequitable funding share for urban counties.	OC Public Works	State/Federal
California Public Utilities Commission Tariffs	Support efforts to ensure that California Public Utilities Commission tariffs and their interpretation do not shift utility costs from utility owners to counties.	OC Public Works	State
California State Route 241 Extension	Support extension of the 241 toll road and related South Orange County regional mobility improvements.	OC Public Works	State/Federal
Cap & Trade	Oppose efforts to expand the scope of Cap and Trade and the shift of program costs to local governments.	County Executive Office	State/Federal
California Environmental Quality Act	Promote revisions to California Environmental Quality Act that modernize, simplify, and streamline the Act, including environmental clearance reciprocity.	OC Public Works	State
Clean Water Act	Support clarifications of, and oppose expansions to, the definition of "Waters of the US."	OC Public Works	Federal

INFRASTRUCTURE & ENVIRONMENTAL RESOURCES Continued

Issue	Summary/Action Item	Department	State/Federal
Coastal Resiliency	Support state and federal funding for coastal resiliency research, planning, and implementation of adaptation strategies.	OC Public Works/ OC Community Resources	State/Federal
Cogeneration & Central Utility Plant Facilities	Maximize the capacity and efficiency of all County cogeneration and central utility plant facilities by providing its excess thermal and electric loads to county and other governmental agencies within the County's geographical boundaries.	OC Public Works	State
County Parks & Trails	Support state and federal funding for recreation amenities and improvements in county parks and trails.	OC Community Resources	State/Federal
Dana Point Harbor	Support efforts that encourage development at Dana Point Harbor to enhance public access opportunities, deliver quality recreational opportunities, update visitor serving commercial opportunities, provide water quality improvements, and promote coastal resource preservation.	County Executive Office	State/Federal
Disaster & Emergency Recovery	Support federal funding for habitat and natural resources restoration in post-disaster/or emergency recovery assistance, in addition to reimbursements provided for damage to infrastructure and property.	OC Community Resources/ OC Waste and Recycling/OC Public Works	Federal
Diversion Credits	Support incentives that allow 100% diversion credits for conversion technologies and for beneficial reuse of materials at landfills.	OC Waste and Recycling	State
Encroachment	Protect John Wayne Airport and county landfills from liabilities associated with new and encroaching development and other non-compatible land uses.	OC Waste and Recycling/John Wayne Airport	State
Energy & Green Technology	Promote incentives for residents, builders, and businesses of Orange County regarding the adoption, use, and economic benefits of green technology, recycled products, and eco-friendly products where economically feasible.	OC Public Works/ OC Community Resources	State/Federal
Federal Aviation Administration	Support efforts that increase transparency and community engagement in the Federal Aviation Administration's decision-making process when proposing changes to the National Airspace System affecting Orange County.	John Wayne Airport	Federal
Fire Protection	Support enhanced funding for CAL Fire fire prevention and hazardous fuel removal projects in state responsibility area lands and ensure local agencies/landowners have access to these funds.	OC Community Resources	State
Flood Control	Support legislation that would provide clarity for local agencies in the reimbursement process with the State related to financial assistance received under the Department of Water Resources subvention program.	County Executive Office	State

INFRASTRUCTURE & ENVIRONMENTAL RESOURCES Continued

Issue	Summary/Action Item	Department	State/Federal
Flood Control Maintenance	Support measures that provide statutory exemptions on water use regulations to include critical flood control, water resource management, and maintenance projects.	OC Public Works	State/Federal
Habitat Mitigation	Support legislation or administrative action which allows flexibility for County agencies to comply with long-term financial assurance requirements for habitat mitigation, standardization of land management requirements across regulatory agencies, and county engagement and input in final mitigation requirements.	OC Waste and Recycling/OC Community Resources	State/Federal
Habitat Restoration	Support state and federal funding for watershed and habitat restoration efforts.	OC Community Resources	State/Federal
Highway Users Tax Account	Protect the Highway Users Tax Account from being diverted for purposes other than County transportation.	OC Public Works	State
Household Hazardous Waste and Pharmaceuticals	Support extended producer responsibility and take-back programs and oppose unfunded mandates extending jurisdictions' responsibility for collection/ disposal of household hazardous waste and pharmaceuticals.	OC Waste and Recycling	State/Federal
Infrastructure	Support efforts to obtain fair compensation for long-term use, cost of review, and preservation of the intended usage of vital county and Orange County Flood Control District infrastructure and property.	County Executive Office	State/Federal
Invasive Species	Support efforts that will provide funding to limit the continued spread of or reduce, control, and/or eradicate invasive species.	OC Community Resources	State/Federal
Landfill Gas-to-Energy	Support efforts that facilitate the viable generation of electricity and natural gas for beneficial uses through landfill gas-to-energy and conversion technology facilities utilizing public utility transmission and distribution grids/line, and lowering the cost to connect to distribution grids/ lines.	OC Waste and Recycling	State/Federal
National Environmental Policy Act	Promote revisions to the National Environmental Policy Act that modernize, simplify, and streamline the Act, including environmental clearance reciprocity.	OC Public Works	Federal
Organics Recycling	Support funding/loan programs for infrastructure in regards to organics recycling/repurpose and energy/gas products from the conversion of municipal solid waste.	OC Waste and Recycling	State/Federal

INFRASTRUCTURE & ENVIRONMENTAL RESOURCES Continued

Issue	Summary/Action Item	Department	State/Federal
Per-and Polyfluoroalkyl Substances (PFAS)	Support measures that provide state or federal funding for the management, disposal, and cleanup of PFAS, and measures that provide flexibility to comply with state and federal requirements related to PFAS. Oppose measures that create liability for cleanup or damages resulting from an entity's federally mandated use of substances containing PFAS, until a PFAS-free replacement has been approved and made commercially available.	John Wayne Airport	State/Federal
Port of Entry	Support John Wayne Airport, Orange County's request to U. S. Customs and Border Protection for designation as a "Port of Entry."	John Wayne Airport	Federal
Recreation and Preservation	Support state and federal funding to meet the recreation needs of Orange County's growing and diverse population – including funding for development, and/or improvement of parkland, recreation infrastructure, and wilderness trails – and maintain habitat and wilderness areas, with consideration for balance of the two.	OC Community Resources	State/Federal
Regional Housing Needs Assessment (RHNA)	Support legislation that provides clarity, addresses inconsistencies, or provides flexibility in the RHNA process for a successful completion of the County's Housing Element.	OC Public Works	State
Regional Planning	Protect local decision-making authority and encourage regional planning that ensures economic competitiveness, and balances quality of life, environment, and health in the development of the Regional Air Quality Master Plan and the Regional Transportation Plan-Sustainable Communities Strategy.	John Wayne Airport	State/Federal
San Onofre Nuclear Generating System	Support efforts to fully decommission the San Onofre site and the timely removal and responsible management of spent nuclear fuel storage.	County Executive Office	State/Federal
Short Lived Climate Pollutants	Monitor regulations being promulgated by the California Air Resources Control Board, to address short-lived climate pollutants particularly as they relate to proposed reductions in the statewide disposal of organic waste from the 2014 level by 2020 and a 75% reduction by 2025.	OC Waste and Recycling	State

INFRASTRUCTURE & ENVIRONMENTAL RESOURCES Continued

Issue	Summary/Action Item	Department	State/Federal
State Flood Control Subvention Program	Support additional funding for the program to assist with the completion of federally authorized flood protection infrastructure projects	OC Public Works	State
Trails & Bikeways Systems	Support state and federal funding for alternative transportation programs to expand and improve the County's regional trails and bikeways system.	OC Community Resources/OC Public Works	State/Federal
Transportation funding FAST Act	Support the reauthorization of a surface transportation act. Support implementation of the provisions of the FAST Act in an equitable manner that promotes equitable funding levels, programming roles, and local discretion in allocation decisions, and support the reauthorization of a surface transportation act.	OC Public Works	Federal
Transportation/ Infrastructure Funding	Support more transportation and infrastructure funding without new taxes.	OC Public Works/ John Wayne Airport	State
Transportation Reauthorization	Support efforts within the surface transportation reauthorization legislation, or other appropriate legislation, that direct state departments of transportation to give consideration to the condition and effectiveness of local evacuation routes in high risk areas when setting priorities for disbursement of highway funding.	OC Public Works	State/Federal
Utility Lines/ Wildfires	Support efforts that seek to improve utility fire mitigation standards in at-risk communities, including, but not limited, to the use of underground utility-related infrastructure. Oppose efforts to reduce accountability for wildfire liability.	County Executive Office	State
Waste Disposal Surcharge Fees	Oppose state fee surcharges unless they are based on reasonable and related costs and do not promote illegal dumping or cause undue financial burden to local governments.	OC Waste and Recycling	State
Water Quality	Ensure that the implementation of the Clean Water Act, Water Resources Development Act, and the Porter-Cologne Act benefits County of Orange projects and programs.	OC Public Works	State/Federal
Water Resources Infrastructure	Support funding and completion of vital flood and water infrastructure projects.	OC Public Works	State/Federal
Water Use Efficiency	Support cost-effective water conservation programs and/or incentives that preserve water resources and the beneficial reuses of storm water.	OC Community Resources	State/Federal
Zoological Operations and Care	Oppose efforts that would impose undue or cost prohibitive regulations or legislation on zoological operations and care.	OC Community Resources	State/Federal

COUNTY AGENCIES & DEPARTMENTS

Agencies & Departments	Phone	Fax
ASSESSOR	(714) 834-2727	(714) 558-0681
AUDITOR-CONTROLLER	(714) 834-2450	(714) 834-2569
CHILD SUPPORT SERVICES	(866) 901-3212	(714) 347-4811
CLERK OF THE BOARD	(714) 834-2206	(714) 834-4439
CLERK-RECORDER	(714) 834-2500	(714) 834-2675
COUNTY COUNSEL	(714) 834-3300	(714) 834-2359
COUNTY EXECUTIVE OFFICE	(714) 834-2345	(714) 834-3018
DISTRICT ATTORNEY-PUBLIC ADMINISRATOR	(800) 568-8448	(714) 834-4326
HEALTH CARE AGENCY (PUBLIC GUARDIAN)	(714) 834-4722	(714) 834-5506
JOHN WAYNE AIRPORT	(949) 252-5171	(949) 252-5290
OC COMMUNITY RESOURCES	(714) 480-2900	(714) 480-2803
OC DANA POINT HARBOR	(949) 923-2236	(949) 923-3792
OC PUBLIC WORKS	(714) 667-8800	(714) 967-0876
OC WASTE & RECYCLING	(714) 834-6752	(714) 834-4001
PROBATION	(714) 569-2000	(714) 645-7098
PUBLIC DEFENDER	(714) 834-2144	(714) 834-2729
REGISTRAR OF VOTERS	(714) 567-7600	(714) 567-7627
SHERIFF-CORONER	(714) 647-7000	(714) 953-3092
SOCIAL SERVICES AGENCY	(714) 541-7700	(714) 245-6282
TREASURER-TAX COLLECTOR	(714) 834-7625	(714) 834-2912

NOTES

COUNTY OF ORANGE
COUNTY EXECUTIVE OFFICE

333 W. Santa Ana Blvd.
Santa Ana, CA 92701

(714) 834-6201

www.ocgov.com/platform

Agenda Item

AGENDA STAFF REPORT 37

ASR Control 20-000839

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S):	Peter DeMarco (714) 834-5777
	Cynthia Shintaku (714) 834-7086

SUBJECT: Grant Applications/Awards Report

CEO CONCUR	**COUNTY COUNSEL REVIEW**	**CLERK OF THE BOARD**
Pending Review	Approved Resolution to Form	Discussion 3 Votes Board Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A **County Audit in last 3 years:** No

Prior Board Action: N/A

RECOMMENDED ACTION(S):

Approve grant applications/awards as proposed and other actions as recommended.

1. Approve Grant Award – OC Community Resources – FY 2020 Mainstream Voucher Program – $1,705,608.
2. Approve Grant Award and Adopt Resolution – OC Sheriff Coroner Department – Boating Safe – Safety and Enforcement Equipment (BSEE) Grant Program - $40,000
3. Approve Grant Award and Adopt Resolution– District Attorney's Office – High Impact Insurance Fraud Program – $275,943.
4. Approve Grant Award – Social Services Agency – Housing Navigators Program (HNP) – $221,210.
5. Receive and File Grant Report.

SUMMARY:

See the attached Grants Report.

BACKGROUND INFORMATION:

See the attached Grants Report.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Grants Report
Attachment B - OCSD Resolution
Attachment B - DA Resolution

Grants Report

DRAFT

County Executive Office/Legislative Affairs

December 15, 2020
Item No : 37

County of Orange Report on Grant Applications/Awards

The Grants Report is a condensed list of grant requests by County Agencies/Departments that allows the Board of Supervisors to discuss and approve grant submittals in one motion at a Board meeting. County policy dictates that the Board of Supervisors must approve all grant applications prior to submittal to the grantor. This applies to grants of all amounts, as well as to new grants and those that have been received by the County for many years as part of an ongoing grant. Receipt of grants $50,000 or less is delegated to the County Executive Officer. Grant awards greater than $50,000 must be presented to the Board of Supervisors for receipt of funds. This report allows for better tracking of county grant requests, the success rate of our grants, and monitoring of County's grants activities. It also serves to inform Orange County's Sacramento and Washington, D.C. advocates of County grant activities involving the State or Federal Governments.

On December 15, 2020 the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

Approve grant applications/awards as proposed and other actions as recommended.

ACTION ITEMS:

1. Approve Grant Award – OC Community Resources – FY 2020 Mainstream Voucher Program – $1,705,608.

2. Approve Grant Award and Adopt Resolution – OC Sheriff Coroner Department – Boating Safe – Safety and Enforcement Equipment (BSEE) Grant Program - $40,000.

3. Approve Grant Award and Adopt Resolution– District Attorney's Office – High Impact Insurance Fraud Program – $275,943.

4. Approve Grant Award – Social Services Agency – Housing Navigators Program (HNP) – $221,210.

5. Receive and File Grants Report.

If you or your staff have any questions or require additional information on any of the items in this report, please contact Cynthia Shintaku at 714-834-7086.

☐ GRANT APPLICATION / ☒ GRANT AWARD

Today's Date:	December 3, 2020
Requesting Agency/Department:	OC Community Resources/Orange County Housing Authority
Grant Name and Project Title:	FY 2020 Mainstream Voucher Program
Sponsoring Organization/Grant Source: (If the grant source is not a government entity, please provide a brief description of the organization/foundation)	United States Department of Housing and Urban Development
Application Amount Requested:	100 Vouchers
Application Due Date:	December 31, 2020
Board Date when Board Approved this Application:	May 5, 2020
Awarded Funding Amount:	$1,705,608
Notification Date of Funding Award:	November 17, 2020
Is this an Authorized Retroactive Grant Application/Award? No (If yes, attach memo to CEO)	
Recurrence of Grant	New ☐ Recurrent ☒ Other ☐ Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	Amount Applied: N/A; $2,899,200; $1,260,000 — Amount Awarded: $438,994; $530,866; $549,168 — Date of Award: May 18, 2020; November 14, 2019; September 4, 2018
Does this grant require CEQA findings?	Yes ☐ No ☒
What Type of Grant is this?	Competitive ☐ Other Type ☒ Explain: See Below
County Match?	Yes ☐ Amount____ or _____ % No ☒
How will the County Match be Fulfilled? (Please include the specific budget)	Not applicable
Will the grant/program create new part or full-time positions?	No
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

The U.S. Department of Housing and Urban Development's (HUDs) Mainstream Voucher Program provides funding to assist non-elderly persons with disabilities who are:

- Transitioning out of institutional or other segregated settings,
- At serious risk of institutionalization,
- Homeless, or
- At risk of becoming homeless

The program encourages partnerships with health and human service agencies with a demonstrated capacity to coordinate voluntary services and supports to enable individuals to live independently in the community. Since 2018, the Orange County Housing Authority (OCHA) has partnered with the Orange County Health Care Agency (HCA) Whole Person Care Pilot (WPC) Program to compete for Mainstream Voucher Program funding and administer the Mainstream Voucher Program.

On September 8, 2020, Notice PIH 2020-22 Mainstream Vouchers – Non-Competitive Opportunity for

Additional Vouchers authorized by CARES Act was published. The notice provided an opportunity for public housing agencies to receive new Mainstream vouchers. In response, OCHA applied for such vouchers and on November 17, 2020, received notice it was awarded 100 vouchers.

As part of Orange County's response to COVID-19, Projects Roomkey/Homekey and Tool Belt prevent and mitigate the spread of COVID-19 among those experiencing homelessness. The programs work with persons experiencing homelessness who are medically vulnerable and are at higher risk for COVID-19, by placing them into non-congregate temporary shelter, and transition them into appropriate housing opportunities. The 100 Mainstream vouchers that have been awarded will be prioritized for those transitioning from Projects Roomkey/Homekey and Toolbelt into permanent housing.

Since implementation of the Mainstream Voucher Program, OCHA and HCA have successfully housed 60 non-elderly disabled households. This funding will automatically renew annually to support housing assistance payments and administrative costs. This award brings OCHA's Mainstream Voucher Program count to 201 vouchers.

Board Resolution Required? (Please attach document to eForm)	Yes ☐ No ☒
Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)	N/A

Recommended Action/Special Instructions
(Please specify below)

Authorize OC Community Resources Director or designee to sign documents applicable to this award, accept funding and administer the Mainstream Voucher Program.

Department Contact:	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Julia Bidwell - (714) 480-2991 julia.bidwell@occr.ocgov.com

Name of the individual attending the Board Meeting:	List the name of the individual who will be attending the Board Meeting for this Grant Item:

Julia Bidwell - (714) 480-2991 julia.bidwell@occr.ocgov.com

CEO-Legislative Affairs Office
Grant Authorization eForm

☐ GRANT APPLICATION / ☒ GRANT AWARD

Today's Date:	December 2, 2020
Requesting Agency/Department:	Sheriff-Coroner Department
Grant Name and Project Title:	Boating Safety and Enforcement Equipment (BSEE) Grant Program
Sponsoring Organization/Grant Source: (If the grant source is not a government entity, please provide a brief description of the organization/foundation)	State of California Division of Boating and Waterways
Application Amount Requested:	$40,000
Application Due Date:	April 30, 2020
Board Date when Board Approved this Application:	March 24, 2020
Awarded Funding Amount:	$40,000
Notification Date of Funding Award:	9/17/20
Is this an Authorized Retroactive Grant Application/Award? No (If yes, attach memo to CEO)	
Recurrence of Grant	New ☐ Recurrent ☒ Other ☐ Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	$90,000 in 2014; $70,000 in 2015; $65,000 in 2016; $50,000 in 2017; $100,000 in 2018; and $40,860 in 2019, but was <u>not</u> previously awarded.
Does this grant require CEQA findings?	Yes ☐ No ☒
What Type of Grant is this?	Competitive ☒ Other Type ☐ Explain:
County Match?	Yes ☐ No ☒
How will the County Match be Fulfilled? (Please include the specific budget)	N/A
Will the grant/program create new part or full-time positions?	N/A
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.
The purpose of the grant project is to provide local governments with boating safety and law enforcement equipment. The Sheriff-Coroner Department (Sheriff) intends to use the grant funding to acquire the necessary equipment for continued safety during boating, harbor enforcement and underwater search operations. The term of this award is October 1, 2020, and ending on September 30, 2022.	
Board Resolution Required? (Please attach document to eForm)	Yes ☒ No ☐
Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)	Wendy Phillips, Senior Deputy County Counsel, reviewed the award document package.
Recommended Action/Special Instructions	

(Please specify below)	
Authorize the Sheriff-Coroner, or designee, to sign all necessary documents required for the acceptance of the grant award and supporting documentation to the Division of Boating and Waterways. Sheriff also requests approval of a grant resolution addressing the requirements of the grant.	
Department Contact :	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Michael Dittenhofer, Administrative Manager II Sheriff's Research and Development mdittenhofer@ocsd.org 714-935-8432	
Name of the individual attending the Board Meeting: Brigitte Ludwig	

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

December 15, 2020

Resolution NO. -

A RESOLUTION TO ACCEPT GRANT FUNDS FROM THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, DIVISION OF BOATING AND WATEWAYS, FOR BOATING SAFETY AND ENFORCEMENT EQUIPMENT

WHEREAS, the County of Orange, Sheriff-Coroner, applied to the California Department of Parks and Recreation, Division of Boating and Waterways, for boating safety and enforcement equipment for the **Sheriff-Coroner of the County of Orange;** and

WHEREAS, the California Department of Parks and Recreation, Division of Boating and Waterways, has approved **Sheriff-Coroner of the County of Orange** to receive **$40,000** in boating safety and enforcement equipment grand funds and now requires a resolution accepting these grant funds.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the **County of Orange** as follows:

Sheriff-Coroner Don Barnes is hereby authorized to accept a California Department of Parks and Recreation, Division of Boating and Waterways, grant in the amount of $40,000 for boating safety and enforcement equipment on behalf of the **Sheriff-Coroner of the County of Orange**, a public entity established under the laws of the State of California.

BE IT FURTHER RESOLVED, the following positions are authorized to execute, on behalf of the County of Orange, all documents necessary to accept the grant:

- Sheriff-Coroner
- Undersheriff
- Assistant Sheriff
- Executive Director
- Captain
- Administrative Manager

BE IT FURTHER RESOLVED, to Authorize the positions mentioned above to execute, on behalf of the County of Orange, any future documents with the California Department of Parks and Recreation, Division of Boating and Waterways, if those actions do not materially change the terms or amounts of the County's commitment as it is reflected in all above-referenced grant application and assurances.

BE IT FURTHER RESOLVED that this Board will not provide matching grant funds.

☐ GRANT APPLICATION / ☒ GRANT AWARD

Today's Date:	December 7, 2020
Requesting Agency/Department:	District Attorney
Grant Name and Project Title:	High Impact Insurance Fraud Program
Sponsoring Organization/Grant Source: (If the grant source is not a government entity, please provide a brief description of the organization/foundation)	California Department of Insurance (CDI)
Application Amount Requested:	$848.900
Application Due Date:	October 16, 2020
Board Date when Board Approved this Application:	March 10, 2020
Awarded Funding Amount:	$275,943
Notification Date of Funding Award:	December 7, 2020
Is this an Authorized Retroactive Grant Application/Award? No (If yes, attach memo to CEO)	
Recurrence of Grant	New ☐ Recurrent ☒ Other ☐ Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	FY 18-19; Applied for $843,983 Awarded $468,899
Does this grant require CEQA findings?	Yes ☐ No ☒
What Type of Grant is this?	Competitive ☒ Other Type ☐ Explain:
County Match?	Yes ☐ Amount_____ or _____ % No ☒
How will the County Match be Fulfilled? (Please include the specific budget)	N/A
Will the grant/program create new part or full-time positions?	No
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

The California Department of Insurance (CDI) released a Fiscal Year 2019-20 Request for Applications for the High Impact Insurance Fraud Program on September 20, 2020. This is the third year of funding for a three-year program. The funds were made available from successfully litigated anti-fraud cases, which shall be used for enhanced investigation and prevention efforts.

The High Impact Insurance Fraud Program funds will be awarded to counties on a case basis and the insurance fraud case must have a suspected loss over $1,000,000. OCDA has identified a qualifying case meeting the requirements of the Disability and Healthcare Insurance Fraud Program (California Insurance Code Section 1872.85).

Board Resolution Required? (Please attach document to eForm)	Yes ☒ No ☐
Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)	James Harman

CEO-Legislative Affairs Office
Grant Authorization eForm

Recommended Action/Special Instructions
(Please specify below)

1. Authorize the District Attorney or his designee, to sign and execute, on behalf of the County of Orange, the Grant Agreement with the CDI accepting the grant award of $275,943 for the High Impact Insurance Fraud Program for fiscal year 2020-21.
2. Authorize the District Attorney, or his designee, to execute, on behalf of the County of Orange, any extensions or amendments that reflect the actual grant award but do not materially alter the terms of the grant award.
3. Adopt the Resolution to receive funds for the High Impact Insurance Fraud Program.

CDI requires the District Attorney to submit a Board Resolution. County Counsel has reviewed and approved the attached sample Board Resolution.

Department Contact :	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Glenn Robison (714) 347-8778; glenn.robison@da.ocgov.com	

Name of the individual attending the Board Meeting:	List the name of the individual who will be attending the Board Meeting for this Grant Item:
Glenn Robison	

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

December 15, 2020

WHEREAS, the County of Orange desires to undertake its project designated "The High Impact Insurance Fraud Program" to be funded in part from funds made available through the California Insurance Code Section 1872.85 and administered by the California Department of Insurance (hereafter referred to as CDI).

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:

1. Find that the proposed project is exempt from CEQA pursuant to 14 C.C.R. 15061(b)(3) because it does not impose a significant effect on the environment.
2. Find that pursuant to Section 711.4 of the California Fish and Game Code, the proposed project is exempt from the required fees as it has been determined that no adverse impacts to wildlife resources will result from the project.
3. Authorize the District Attorney, or his designee, to sign and execute, on behalf of the County of Orange, a Grant Award Agreement with CDI for the High Impact Insurance Fraud Program, effective from July 1, 2020 through June 30, 2021, in the amount not to exceed $275,943.
4. Authorize the District Attorney, or his designee, to execute, on behalf of the County of Orange, any extensions or amendments that reflect the actual grant award amount but do not materially alter the terms of the grant award.
5. Assure that the County of Orange assumes any liability arising out of the performance of this Grant Award Agreement, including civil court actions for damages. The State of California and the California Department of Insurance disclaim responsibility for any such liability.
6. Assure that the County of Orange will not use grant funds to supplant expenditures controlled by the Board of Supervisors.

CEO-Legislative Affairs Office
Grant Authorization eForm

☐ **GRANT APPLICATION /** ☒ **GRANT AWARD**

Today's Date:	December 7, 2020	
Requesting Agency/Department:	Social Services Agency	
Grant Name and Project Title:	Housing Navigators Program (HNP)	
Sponsoring Organization/Grant Source: (If the grant source is not a government entity, please provide a brief description of the organization/foundation)	California Department of Housing and Community Development (HCD)	
Application Amount Requested:	$221,210	
Application Due Date:	March 31, 2020	
Board Date when Board Approved this Application:	March 24, 2020	
Awarded Funding Amount:	$221,210	
Notification Date of Funding Award:	November 19, 2020	
Is this an Authorized Retroactive Grant Application/Award? No (If yes, attach memo to CEO)		
Recurrence of Grant	New ☒ Recurrent ☐	Other ☐ Explain:
If this is a recurring grant, please list the funding amount applied for and awarded in the past:	N/A	
Does this grant require CEQA findings?	Yes ☐	No ☒
What Type of Grant is this?	Competitive ☐	Other Type ☒ Explain: Allocated funds defined by HCD.
County Match?	Yes ☐ Amount_____ or __100____ %	No ☒
How will the County Match be Fulfilled? (Please include the specific budget)	N/A	
Will the grant/program create new part or full-time positions?	No.	
Purpose of Grant Funds:	Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.	

Pursuant to Item 2240-103-0001 of Section 2 of the Budget Act of 2019, as amended by Section 16 of Chapter 363 of the Statutes of 2019 (SB 109), the Department of Housing and Community Development (HCD) shall allocate $5 million in funding to counties for the support of housing navigators to help young adults aged 18 years and up to 21 years secure and maintain housing, with priority given to young adults in the foster care system.

Pursuant to statute, HCD consulted with the Department of Social Services, the Department of Finance, and the County Welfare Directors Association to establish the formula allocation for the purpose of distributing these funds to counties. The formula allocation is based on each county's percentage of the total statewide number of young adults aged 18 through 21 years old in foster care. The allocation excludes Alpine, Mono, and Sierra counties because their calculation did not demonstrate a need for young adults aged 18-21. Orange County's estimated allocation is $221,210, which could increase if other counties choose not to apply for their allocation which would then be distributed to applying counties based on the established allocation methodology.

CEO-Legislative Affairs Office
Grant Authorization eForm

The HNP funds housing navigators for county child welfare agencies. The role of a housing navigator is to act as a housing specialist to assist young adults with their pursuits of locating available housing and overcoming barriers to locating housing. The county may use the funding to provide housing navigation services directly or through a contract with other housing assistance programs in the county. It is encouraged that the county coordinate with the local Continuum of Care to foster communication and collaboration. Housing navigator activities may include, but are not limited to:

1) Assist young adults aged 18-21 secure and maintain housing (with priority given to young adults in the state's foster care system);
2) Provide housing case management which include essential services in emergency supports to foster youth;
3) Prevent young adults from becoming homeless; and
4) Improve coordination of services and linkages to key resources across the community including those from within the child welfare system and the local Continuum of Care.

Board Resolution Required? (Please attach document to eForm) **Deputy County Counsel Name:** (Please list the Deputy County Counsel that approved the Resolution)	Yes ☐ No ☒

Recommended Action/Special Instructions
(Please specify below)

Authorize the Social Services Agency Director or designee to accept the grant funds for the Housing Navigators Program allocation in the estimated amount of $221,210 and to execute an Agreement with the State of California Department of Housing and Community Development to administer the HNP funds, including augmentations to the estimated allocation amount of $221,210.

Department Contact:	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Ken Santini, (714) 245-6109, Ken.Santini@ssa.ocgov.com	

Name of the individual attending the Board Meeting:	List the name of the individual who will be attending the Board Meeting for this Grant Item:
Debra J. Baetz	

Continuation or Deletion Request

Date: **12/8/2020**

To: Clerk of the Board of Supervisors

From: **Clayton Chau, Agency Director, Health Care Agency**

Re: ASR Control #: 20-000941, Meeting Date 12/15/20 Agenda Item No. # S37A

Subject: **Amendments to Ambulance Ordinance**

☒ Request to continue Agenda Item No. # S37A to the 1/26/2021 Board Meeting.

Comments: HCA would like to continue above mentioned item to BOS 1/26 to have additional time to provide more details for the the Board.

☐ Request deletion of Agenda Item No. # _____

Comments:

BOARD OF SUPERVISORS
2020 DEC 11 PM 2:39
CLERK

Agenda Item

AGENDA STAFF REPORT

ASR Control 20-000941

MEETING DATE:	12/08/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	Health Care Agency (Approved)
DEPARTMENT CONTACT PERSON(S):	Cheryl Meronk (714) 834-4099
	Steve Thronson (714) 834-4418

SUBJECT: Amendments to Ambulance Ordinance

CEO CONCUR	**COUNTY COUNSEL REVIEW**	**CLERK OF THE BOARD**
Concur	Approved Ordinance to Form	Discussion 3 Votes Board Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A **County Audit in last 3 years:** No

Prior Board Action: 4/23/1985, #71

RECOMMENDED ACTION(S):

1. Read title of Ordinance, "An Ordinance of the County of Orange, California amending sections 4-9-1 through 4-9-17 of the Codified Ordinances of the County of Orange Regarding Ambulance Services."
2. Order further reading of Ordinance be waived.
3. Direct Ordinance be placed on the agenda for the next regularly scheduled Board of Supervisors meeting for adoption.
4. Consider the matter and adopt the Ordinance at the next regularly scheduled meeting.

SUMMARY:

Adoption of An Ordinance of the County of Orange, California amending sections 4-9-1 through 4-9-17 of the Codified Ordinance of the County of Orange Regarding Ambulance Services will establish updated minimum ambulance license requirements and the competitive process required for creation of Exclusive Operating Areas for 911 emergency ambulance transport.

BACKGROUND INFORMATION:

On April 23, 1985, the Board of Supervisors (Board) approved Ordinance 3517 to regulate the operation of ambulances within the County's unincorporated areas and those cities served by the Orange County Fire Department. The Ordinance was drafted based on the following principles: de-regulation of non-emergency services; setting of maximum rates for emergency ambulance transport; and establishment of exclusive operating areas for emergency ambulance transport through a competitive process. Most Orange County cities have adopted the County's Ordinance and integrated it into their city municipal codes with minimal change, if any.

The County's emergency medical services system has evolved over the past 35 years since the Ordinance's adoption in 1985, necessitating appropriate changes to the County's Ambulance Ordinance. The proposed amendments for the Board's consideration update the Ambulance Ordinance to reflect the statutory authority and framework pertaining to provision of prehospital emergency medical care and transport, current best practices for ambulance services such as local accreditation for EMS personnel and the February 2014 ruling from the State of California Emergency Medical Services Authority (EMSA) directing the Health Care Agency (HCA) to conduct the competitive procurement process regarding creation of Exclusive Operating Areas for emergency ambulance transport. The proposed changes to the current Ordinance include among other things, the following:

- Elimination of references to obsolete terms (e.g., Orange County Fire Department) and provision of an updated set of definitions
- Strengthened license application review process
- Simplified fair disciplinary procedures for denial, suspension and revocation of ambulance license
- Clarified and enhanced personnel standards consistent with Health and Safety Code and California Code of Regulations, Title 22 provisions pertaining to prehospital emergency care and ambulance transport
- Setting forth the competitive procurement process required for establishing Exclusive Operating Areas (i.e., exclusive contracts) for emergency ambulance transport consistent with Health and Safety Code Section 1797.224

HCA solicited public comment from the emergency medical services system stakeholders and the Emergency Medical Care Committee (EMCC). Public comments were received from October 9, 2020, through October 30, 2020. EMCC's Transportation Advisory Committee has intermittently worked on an ordinance update for the past ten years and much of its work is reflected in the proposed amendments for the Board's consideration. In 2020, the Ambulance Ordinance Task Group re-convened, completing a comprehensive review of all amendments and full endorsement of the proposed changes to the County's Ordinance (See Attachment E).

Compliance with CEQA

This action is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The approval of this agenda item does not commit the County to a definite course of action in regard to a project since it involves amendments to the Orange County Codified Ordinance specific to ambulance license requirements and process required for creation of Exclusive Operating Areas for 911 emergency

ambulance transport. This proposed activity is therefore not subject to CEQA. Any individual, specific work authorized pursuant to this contract will be reviewed for compliance with CEQA.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Proposed Amendments to Orange County Codified Ordinance, Sections 4-9-1 through 4-9-17
Attachment B - Current Version of Orange County Codified Ordinance, Sections 4-9-1 through 4-9-17
Attachment C - Redline Version of Current Orange County Codified Ordinance, Sections 4-9-1 through 4-9-17
Attachment D - Health and Safety Code Section 1797.224
Attachment E - Letter of Support, Ambulance Association of Orange County

ORDINANCE NO. 21-___

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA AMENDING SECTIONS 4-9-1 THROUGH 4-9-17 OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE REGARDING AMBULANCE SERVICE

The Board of Supervisors of the County of Orange, California ordains as follows:

SECTION 1. Sections 4-9-1 through 4-9-17 of Article 1 of Division 9 of Title 4 of the Codified Ordinances of the County of Orange are hereby amended to read as follows:

Sec. 4-9-1 Intent and Purpose

It is the intent of this Division to establish the minimum license requirements for operating Ambulance Service within the geographical boundaries of the County in order to provide a fair and impartial means of licensing responsible Ambulance Service Operators and to set forth the competitive process required for the creation of Exclusive Operating Areas.

Sec. 4-9-2 Definitions

The following definitions shall govern the provisions of this Division.

(a) Advanced Life Support or ALS mean special services designed to provide definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of a base hospital as part of a local emergency medical services system at the scene of an emergency, during transport to an acute care hospital, during interfacility transfer, and while in the emergency department of an acute care hospital until responsibility is assumed by the emergency or other medical staff of that hospital.

(b) Air Ambulance means any aircraft specially constructed, modified, or equipped, and used for the primary purposes of responding to emergency calls and transporting critically ill or injured patients whose medical flight crew has at a minimum two (2) Attendants certified or licensed in Advanced Life Support.

(c) Ambulance means any vehicle specially constructed, modified, or equipped, and used for the purpose of transporting a Patient and is operated by one or more Attendant(s).

(d) Ambulance Service means any activity, business or service that is (i) for hire, profit or otherwise, and (ii) set up for the purpose of transporting one or more Patient by Ambulance or Air ambulance.

(e) Ambulance Service Operator means any Person who operates or owns an Ambulance Service.

(f) Attendant means a trained and qualified individual, including, but not limited to, a Driver of an Ambulance or pilot of Air Ambulance, who is responsible for the care of a Patient and possesses the certification or other document specified in Section 4-9-11 of this Division.

(g) Basic Life Support or BLS mean emergency first aid and cardiopulmonary resuscitation procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary resuscitation to maintain life without invasive techniques until the victim may be transported or until Advanced Life Support is available.

(h) Board of Supervisors means the Orange County Board of Supervisors.

(i) County means the County of Orange, State of California.

(j) Dispatcher means an individual, employed by an Ambulance Service Operator, who is responsible for sending an Ambulance to attend to an Emergency.

(k) Driver means an Attendant who drives an Ambulance.

(l) Emergency or Medical Emergency mean a condition or situation in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency.

(m) Emergency Ambulance Services means an Ambulance Service Operator that may utilize its Ambulance or Air Ambulance to respond to an Emergency.

(n) Emergency Medical Services means the services utilized in responding to an Emergency.

(o) Emergency Medical Services Authority or EMSA mean the California Emergency Medical Services Authority.

(p) Emergency Medical Services Plan or EMS System Plan or EMS Plan mean the most recent OCEMS Emergency Medical Services System Plan together with its annual update submitted to EMSA pursuant to Health and Safety Code sections 1797.250 and 1797.254.

(q) Emergency Medical Services System means a specially organized arrangement which provides for the personnel, facilities, and equipment for the effective and coordinated delivery within the County's geographic boundaries of medical care services under emergency conditions.

(r) Exclusive Operating Area or EOA mean the geographical area within the jurisdiction of OCEMS or a subarea defined in the Emergency Medical Services Plan for which OCEMS, upon the recommendation of the County, restricts operations to one or more Emergency Ambulance Services or providers of Limited Advanced Life Support or Advanced Life Support.

(s) Orange County Health Care Agency or Health Care Agency or HCA mean the Orange County Health Care Agency.

(t) Licensee means an Ambulance Service Operator that has been granted a license under this Division to provide Ambulance Service.

(u) Limited Advanced Life Support means special services designed to provide prehospital emergency medical care limited to techniques and procedures that exceed Basic Life Support but are less than Advanced Life Support.

(v) Medical Control means the medical management of the Emergency Medical Services System.

(w) Medical Director means the Medical Director of OCEMS designated by the County to provide Medical Control and assure medical accountability throughout the planning, implementation, and evaluation of the local Emergency Medical Services System.

(x) Orange County Emergency Medical Services or OCEMS mean Orange County Health Care Agency Emergency Medical Services, which has been designated by the County as the agency having primary responsibility for administration of Emergency Medical Services in the County.

(y) Paramedic means an individual whose scope of practice to provide Advanced Life Support is according to standards prescribed in and has a valid certificate issued pursuant to Division 2.5 of the Health and Safety Code and Title 22 Regulations.

(z) Patient means a convalescent, infirm, wounded, injured, sick, invalid, or otherwise incapacitated individual.

(aa) Person means an individual, firm, corporation, partnership, limited liability company, association, or other group, or combination thereof acting as a unit.

(bb) Physician means a medical doctor or osteopath holding the appropriate valid license or certificate to practice as such within the State of California pursuant to the Business and Professions Code.

(cc) Public Safety Agency means a public law enforcement agency, fire protection agency, lifeguard/marine safety agency, or forest ranger agency operating in the County.

(dd) Specialty Care Transport means services provided by registered nurses, physicians, and respiratory therapists who have training and experience in the care and transport of critically ill patients.

Sec. 4-9-3 License Required

(a) A license issued by the Medical Director in accordance with this Division in the name of the applicant is required to operate Ambulance Service within Orange County. To operate an Ambulance Service within Orange County without a valid license issued by the Medical Director is a violation of this Division. Each Ambulance transport of a Patient without a valid license constitutes a separate violation of this Division. A license issued under this Division does not preclude a city's ability to require an Ambulance Service Operator to have a business license to operate within the city.

(b) A license shall be valid for a period of not more than 365 days, unless earlier suspended, revoked, surrendered, or otherwise terminated.

(c) The provisions of this Section shall not apply to:

(1) Ambulance Services operated by a public safety agency within Orange County.

(2) Ambulance Services operated at the request of a public safety agency during a duly declared "state of war emergency," "state of emergency" or "local emergency," as defined in the California Government Code.

(3) Ambulance transporting a Patient from a location outside of Orange County, regardless of destination.

(4) Ambulance transporting a Patient by a fixed-wing airplane.

Sec. 4-9-4 Transfer of License

(a) A license issued under this Division is not transferrable. The occurrence of any of the following shall render a license invalid and void:

(1) Any change in the name or business structure of a licensee, including but not limited to changes from or to:

(A) A sole proprietorship;

(B) A partnership, including any change in the membership of the partners;

(C) A corporation, whether by operation of law or otherwise; and,

(D) A limited liability company, including any change in the managing member(s) thereof.

(2) Bankruptcy, an assignment for the benefit of creditors, or the appointment of a receiver.

(3) A sale or transfer of over ten (10) percent of the assets of a licensee.

(4) A sale or transfer of over ten (10) percent of the ownership of a licensee.

(5) A merger.

(6) A partial or full assignment of a license.

(b) A licensee may apply to the Medical Director for an amendment to the terms and conditions of the license. An application for an amended license shall be processed in the same manner as described in subdivisions (a) through (c) of Section 4-9-5.

Sec. 4-9-5 Applications

(a) Each application for a license under this Division shall be accompanied by an application fee, if any, set by the Board of Supervisors, and be made upon forms prescribed by the Medical Director.

(b) Each applicant shall submit the following:

(1) The applicant's name and the address of its principal place of business;

(2) Where the applicant is a firm, corporation, partnership, association, or other group, or combination thereof acting as a unit, the identities of the members and/or owners of the applicant;

(3) The applicant's training and experience in operating Ambulance Service, other type of Patient transportation, and/or providing care to Patients;

(4) The names under which the applicant has engaged, does, or proposes to engage in Ambulance Services;

(5) A description of each Ambulance or Air Ambulance to be used under the license, including the make, model, year of manufacture, identification number, current state license number, the length of time it has been in use, the color scheme, insignia, name, monogram and its other distinguishing characteristics, a description of the applicant's program for its maintenance, and a description of its radio(s);

(6) Evidence that the applicant has obtained all licenses and permits required by state or local law or regulation for the type of Ambulance Service proposed (e.g. BLS, ALS, Air-ALS, etc.), excluding only a license to provide the service for which application is made;

(7) Evidence that the applicant possesses and maintains a currently valid "Emergency Ambulance Non-Transferable License," and a "Special Vehicle Identification Certificate" or an "Ambulance Inspection Report" (CHP Form #299) for each Ambulance or Air Ambulance listed in the application;

(8) A description of the applicant's training and orientation programs for Attendants, Drivers, and Dispatchers;

(9) Evidence of such financial responsibility and insurance coverage as may be required by the Medical Director pursuant to policies and regulations the Medical Director adopts pursuant to this Division;

(10) Identification of the geographical area to be served by the applicant, if required by OCEMS;

(11) A list of all substations or offices where equipment and personnel are, or will be based, including hours of operation;

(12) A description of whether the Ambulance Service proposed by the applicant will include Basic Life Support, Advanced Life Support, and/or Specialty Care Transport services, and, if so:

(A) The number of Basic Life Support, Advanced Life Support, and/or Specialty Care Transport service units to be licensed;

(B) The geographical area to receive Basic Life Support, Advanced Life Support, Limited Advanced Life Support, and/or Specialty Care Transport services; and

(C) The provisions, if any, for continuing education of attendants;

(13) Such other information as the Medical Director may require in regulations or policies the Medical Director adopts pursuant to this Division.

(c) All new applications and applications for an amendment to a current license as specified in subdivision (b) of Section 4-9-4 shall require each principal of the applicant to have Live Scan fingerprint clearance through any applicable law enforcement agency indicating the applicant has undergone a criminal background check and has no denial, suspension, or revocation of a California Highway Patrol license pursuant to California Vehicle Code section 2540 et seq. or is not listed on any federal or state program exclusions list.

(d) Renewal applications shall be submitted on or before October 31 of each calendar year in the same form as new applications under this Section. Unless otherwise requested by the Medical Director, the requirements of subdivision (c) of this Section shall not apply to renewal applications.

Sec. 4-9-6 Investigations

Upon receipt of a completed application and any required fee, the Medical Director shall make, or cause to be made, such investigation as he or she deems necessary to determine whether:

(a) The applicant is a responsible and proper person to operate, or engage in operation of, Ambulance Service;

(b) The applicant meets the requirements of this Division and of other applicable laws, ordinances, or regulations.

Sec. 4-9-7 Issuance or Denial of Ambulance Service License

(a) The Medical Director shall issue a license to an applicant if the Medical Director, after completing any investigation required pursuant to this Division, determines all requirements of this Division have been met and any required license fee has been paid.

(b) The Medical Director shall deny the application if he or she finds any of the following:

(1) the applicant failed to meet the requirements of any provision of this Division;

(2) the applicant made any omission of material fact, or made any false or misleading statement, in the application;

(3) the applicant or any of the individuals identified in the application as required under subdivision (b)(2) of Section 4-9-5 have committed any of the acts delineated in section 480 of the California Business and Professions Code, but subject to the limitations of such denial as specified in said statute. In determining the effect of any acts that fall within the scope of section 480 on the issuance or denial of a license, the Medical Director shall consider whether the acts are related to Ambulance Service and shall evaluate the rehabilitation of the individuals identified in the application to whom the acts apply. The Medical Director shall not consider acts of which the applicant in its organization capacity or the individuals identified in the application is, or was, accused but not convicted.

(4) the operation or any part thereof as described in the application will be detrimental to the public health, safety, or welfare.

(5) the issuance of an ambulance service license to the applicant would be inconsistent with the Emergency Medical Services Plan.

(c) In the event of denial, the applicant shall be informed in writing of the reasons therefore.

(d) The applicant may appeal the denial of its application within five (5) days by submitting to the Medical Director a written request for a hearing. The hearing shall be held within fourteen (14) days of the request in accordance with the procedures set forth in subdivision (c) and (d) of Section 4-9-9 of this Division.

Section 4-9-8 Indemnification and Insurance Provisions

(a) Each licensee shall purchase and maintain, at the licensee's expense, such insurance specified in regulations or policies the Medical Director adopts pursuant to this Division.

(b) Each licensee shall submit to OCEMS the Certificates of Insurance, including all endorsements required therein, necessary to satisfy the insurance requirements of this Section.

Sec. 4-9-9 Suspension or Revocation of an Ambulance Service License

(a) The Medical Director may revoke, after a hearing held pursuant to this Section, a license issued pursuant to this Division for failure by the licensee to comply with any applicable provision, standard, or requirement of the following: state law or regulation; this Division; or, any regulations or policies the Medical Director adopts under this Division. Temporary suspension of a license is not a condition precedent to revocation of a license.

(b) The Medical Director shall provide to licensee advanced written notice of his or her intent to revoke the license. Said notice shall:

(1) Specify the reasons based on which the Medical Director is relying in proposing to revoke the license;

(2) Set a hearing for not more than twenty (20) days and not less than seven (7) days after the date of the notice;

(3) Specify the date, time, and place of the hearing on the proposed revocation;

(4) Include the procedures set forth in subdivision (c) of this Section; and

(5) Be served on the licensee either by certified mail delivery to the address identified in subdivision (b)(1) of Section 4-9-5 or the address of its designated agent for service of such notices, if any.

(c) The Medical Director shall request from the Orange County Clerk of the Board to, and the Clerk of the Board shall, assign an impartial hearing officer to hear the proposed license revocation. The hearing and the procedures at the hearing shall be informal. The Medical Director shall have the burden of proof by a preponderance of the evidence that the licensee has failed to comply with any applicable provision, standard, or requirement as detailed in subdivision (a) of this Section. The parties may proffer any documentary evidence at the hearing to support their side, provided the parties provide copies of the documentary evidence to each other at least seven (7) days prior to the hearing date. Both parties may offer testimonial evidence by an individual, provided the parties provide the witness names to each other at least seven (7) days prior to the hearing date. The hearing officer may consider any and all evidence, including hearsay evidence, to decide in favor or against the proposed action by the Medical Director.

(d) The hearing officer shall prepare a written summary of the evidence and proposed findings and conclusions for consideration by the HCA Director no later than seven (7) calendar days from the conclusion of the hearing. The HCA Director shall consider the proposed findings and conclusions of the hearing officer and issue a written decision no later than seven (7) calendar days from receipt of the hearing officer's proposed findings and conclusions. The decision of the HCA Director shall be final.

(e) The Medical Director may temporarily suspend a license issued pursuant to this Division where such action is necessary to protect the public health, safety, or welfare of County residents. The temporary suspension under this subdivision shall be effective upon issuance of a written notice of temporary suspension by the Medical Director and shall remain in effect until such time the conditions stated therein are satisfied. The notice shall be served on the licensee either by certified mail delivery to the address identified in subdivision (b)(1) of Section 4-9-5 or to the address of its designated agent for service of such notices, if any. The Medical Director may subsequently proceed with the procedures specified in subdivisions (a) through (c) of this Section to initiate the revocation of the license if (i) he or she deems revocation of the license is necessary for the protection of the public health, safety, or welfare of the County residents, or (ii)

the licensee does not comply with the conditions the Medical Director specifies in the notice of temporary suspension within the allotted time, including any reasonable extensions thereof.

(f) In the event a license is revoked, as specified in this Section, the licensee shall no longer be considered a licensed Ambulance Service Operator in Orange County and its license shall be deemed invalid and void.

(g) A hearing specified in subdivision (c) of this Section shall not be required if a licensee voluntarily surrenders its license or fails to renew its license before its expiration. In such cases, the licensee shall no longer be considered a licensed Ambulance Service Operator in Orange County and its license shall be deemed invalid and void.

Sec. 4-9-10 Notification

The licensee shall notify the Medical Director 60 days in advance of any change in ownership or management of the licensee. The Medical Director shall also be notified in advance of any planned or known interruption of service of more than twenty-four (24) hours duration, or any substantial change in staffing or equipment. For unexpected interruptions in service, staffing, or equipment, the Medical Director shall be contacted as soon as possible following the interruption in service.

Sec. 4-9-11 Personnel Standards

(a) A licensee shall only employ personnel performing tasks described in this Division who comply with the requirements of this Section and as specified in the regulations and policies the Medical Director adopts under this Division.

(b) Ambulance drivers shall maintain an appropriate driver's license issued by the California Department of Motor Vehicles. Air Ambulance pilots shall meet the applicable Federal Aviation Administration requirements to operate an Air Ambulance.

(c) Each Ambulance Attendant shall possess the following:

(1) a valid Emergency Medical Technician (EMT) certificate or a valid Paramedic license, and

(2) an accreditation with OCEMS as identified in subdivision (f) of this Section.

(d) An Air Ambulance Attendant shall possess the following:

(1) a valid license or certification as appropriate for the level of care provided to Patients, and

(2) an accreditation with OCEMS as identified in subdivision (f) of this Section.

(e) An individual employed as an Ambulance Attendant or as an Air Ambulance Attendant who possesses a valid license by the State of California to serve as a physician or as a

registered nurse shall not be required to maintain an Emergency Medical Technician (EMT) certificate or Paramedic license. The Medical Director may adopt such regulations or policies, as deemed necessary, governing physicians and registered nurses when serving as Ambulance Attendants.

(f) Applications for OCEMS accreditation shall be considered by the Medical Director under regulations or policies the Medical Director adopts pursuant to this Division. Applications for OCEMS accreditation shall be in a form required by the Medical Director and shall be accompanied by the established fee, if any, set by the Board of Supervisors.

(g) Each licensee shall have at least one (1) Dispatcher on duty on a twenty-four (24) hour-per-day basis. Licensees shall adequately train Dispatchers on radio operation and protocols related to the emergency response area(s) served before said Dispatcher begins dispatching emergency calls. For purposes of this subdivision, "adequate" training of a Dispatcher shall be that which meets standards set by OCEMS and applicable State requirements.

Sec. 4-9-12 Rates

No licensee shall charge more than those rates approved by the Board of Supervisors for Emergency Ambulance Services.

Sec. 4-9-13 Exclusive Operating Areas

(a) Except as provided in subdivision (b) of this Section, Emergency Ambulance Services, Limited Advanced Life Support, or Advanced Life Support services in an EOA created by OCEMS pursuant to Health and Safety Code section 1794.224 may only be provided by the licensed Ambulance Service Operator that has an existing contract with the County to provide such services. In accordance with section 1797.224, the County shall use a competitive process consistent with the Emergency Medical Services Plan in awarding contracts to licensees for provision of Emergency Ambulance Services in an EOA created by OCEMS pursuant to Health and Safety Code section 1794.224. As expressly stated in Health and Safety Code section 1797.224, no competitive process is required if OCEMS develops or implements an EMS Plan that continues the use of existing providers operating within the County in the manner and scope in which the services have been provided without interruption since January 1, 1981, and nothing in the creation of an EOA supersedes Health and Safety Code section 1797.201.

(b) A Licensee may provide Ambulance Services in response to an Emergency where expressly requested for response to that specific Emergency by OCEMS, a physician, a public safety agency, or the Ambulance Service Operator identified in subdivision (a) of this Section. County licensure is not required for mutual aid responses by out-of-county Ambulance Service Operators where the services are requested by OCEMS or a public safety agency. Any Ambulance Service Operator receiving a request for Emergency Ambulance Services from other than a public safety agency, physician, OCEMS, or the primary Emergency Ambulance Services contractor of the respective EOA shall immediately notify OCEMS and the public safety agency designated by regulation of the request.

(c) No Ambulance or Air Ambulance dispatched to an emergency shall transport a Patient unless:

(1) A public safety agency is present at the location of the Patient or authorizes transport via dispatch; or

(2) A physician is present at the location of the Patient and directs transportation in the absence of a public safety agency; or

(3) Permitted by OCEMS polices or regulations.

Sec. 4-9-14 Policies and Regulations

(a) The Medical Director shall adopt such policies and regulations as may be necessary to implement the provisions of this Division. Prior to adoption, proposed policies and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.

(b) The Medical Director or his or her designee(s) may inspect the records, facilities, transportation units, equipment, and method of operating of each licensee whenever necessary.

Sec. 4-9-15 Complaints

Any individual who believes, or has reason to believe, that he or she or someone else has been required to pay an excessive charge for Ambulance Services, received inadequate Ambulance Services, or Ambulance Services provided were not in compliance with any provision of this Division or applicable laws and regulations or guidelines, may file a written complaint with OCEMS setting forth such allegations. OCEMS shall investigate the complaint and take appropriate action consistent with this Division.

Sec. 4-9-16 Variance

The Medical Director may grant variances from the terms of this Division if he or she finds such action is necessary to protect the public health, safety, or welfare of County residents. Such variances may include the issuance of a temporary license. No variance shall exceed one hundred and eighty (180) days in duration.

Sec. 4-9-17 Violation

Violation of any provision of this Division by an Ambulance Service Operator shall be a misdemeanor.

Sec. 4-9-18 Additional Provisions

(a) If any section, paragraph, sentence, clause, phrase or portion of this Division is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions thereof. The Board of Supervisors hereby declares that it would have adopted this Division irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance be enforced.

(b) This Division shall be construed in accordance with the laws of the State of California, including but not limited to, the Emergency Medical Services System and the

Prehospital Emergency Medical Care Personnel Act set forth in California Health and Safety Code sections 1797, et seq., and shall not be construed in a way that would result in conflict with, or preemption by, any such laws.

Sec. 4-9-1. - Intent and purpose.

It is the intent of this division to establish general operating procedures and standards for medical transportation services operating within the unincorporated areas of the County in both emergency and other situations, to provide a fair and impartial means of allowing responsible private operators to provide such services in the public interest and to provide a means for the designation of emergency response areas. This division is intended to be used as a model for adoption by cities within the County.

Sec. 4-9-2. - Definitions.

For purposes of this division, the following terms are defined:

(a) *Advanced life support service* and *basic life support service* mean the same as defined in the California Health and Safety Code.

(b) *Ambulance* means a motor vehicle, helicopter, or similar vehicle, specifically constructed, modified, equipped, or arranged and operated for the purpose of transporting patients requiring immediate or ongoing medical services excluding the transportation of such persons to or from locations not providing services as defined in this division.

(c) *Ambulance service* means the activity, business or service, for hire, profit, or otherwise, of transporting one or more persons by ambulance; provided, however, ambulance service shall not include the transportation by ambulance by an employer of his or her own employees in an ambulance owned and operated by the employer solely for this purpose.

(d) *Ambulance service operator* means any person who operates or owns an ambulance service.

(e) *Attendant* means a trained, qualified individual who, regardless of whether he or she also serves as driver, is responsible for the care of patients.

(f) *County* means the County of Orange, State of California.

(g) *Department* means the Emergency Medical Services Agency of the County of Orange or the Health Care Agency of the County of Orange, or as otherwise designated by the Board of Supervisors.

(h) *Dispatcher* means an individual employed by an ambulance service operator responsible for sending an ambulance to provide ambulance service to a patient.

(i) *Driver* means an attendant who drives or pilots an ambulance.

(j) *Emergency* means a sudden, unforeseen event giving rise to a need for ambulance service with basic or advanced life support services.

(k) *Emergency response area* means a geographical location specified by the Fire Chief within which emergency service may be provided under a license.

(l) *Emergency service* means ambulance service performed in response to an emergency.

(m) *Fire Chief* means the Director of Fire Services for the County of Orange.

(n) *Health Officer* means the Orange County Health Officer or other official designated by the Board of Supervisors of Orange County to perform the Health Officer's functions under this division.

(o) *Licensee* means an ambulance service operator which has been granted a license under this division to provide ambulance service.

(p) *Medical services* means services provided by health care professionals licensed pursuant to the California Business and Professions Code or as specified by regulations adopted pursuant to this division.

(q) *Paramedic* means the same as defined in the California Health and Safety Code.

(r) *Patient* means a wounded, injured, sick, invalid, or otherwise incapacitated person.

(s) *Person* means any individual, firm, corporation, partnership, association, or other group or combination acting as a unit.

(t) *Physician* means a medical doctor or osteopath holding the appropriate license or certificate to practice as such with the State of California pursuant to the Business and Professions Code.

(u) *Public safety agency* means any public law enforcement agency, fire protection agency, or forest ranger operating in the County.

Sec. 4-9-3. - License required.

(a) It shall be unlawful for any person to be an ambulance service operator, or to act in such a capacity either directly or indirectly, without possession of a license issued pursuant to this division.

A license may specify the specific geographical area within the County in which it is valid; provided, however, with respect to emergency response areas, reference to the emergency response area by a specific number or similar identification shall be sufficient description of geographic limitation. A license shall be valid for not more than one calendar year or the expiration of the calendar year in which it was issued, whichever is shorter.

(b) The provisions of this division shall not apply to:

(1) Ambulances operated at the request of a public safety agency during any "state of war emergency," "state of emergency" or "local emergency," as defined in the Government Code.

(2) Ambulance service transporting a patient from a location outside of Orange County regardless of destination.

(3) Ambulance service transporting a patient by a fixed-wing airplane.

Sec. 4-9-4. - Transfer and term of license.

No license issued pursuant to this division can be transferred by operation of law or otherwise. The following shall be considered transfers for purposes of this section:

(a) Any change in the business structure of a licensee, including, but not limited to, changes from or to:

(1) A sole proprietorship;

(2) A partnership, including any change in the partners; and

(3) A corporation, including any change in the shareholders, whether by operation of law or otherwise.

(b) Bankruptcy, an assignment for the benefit of creditors, or the appointment of a receiver.

(c) A sale or transfer of over ten (10) percent of the assets of a licensee.

A licensee may apply to the Health Officer for an amendment to the terms of the license, which request shall be processed in the same manner as an original application. Notwithstanding anything in this section to the contrary, licenses may be suspended, revoked, or terminated prior to the expiration date, pursuant to the provisions of this division.

Sec. 4-9-5. - Applications.

(a) Each application for a license shall be accompanied by an application fee, if any, set by the Board of Supervisors, and be made upon forms prescribed by the Health Officer.

(b) Each applicant shall submit the following:

(1) The names and addresses of the applicant(s) and the owner(s) of the ambulance(s) and the business and any interest therein;

(2) The applicant's training and experience in the transportation and care of patients;

(3) The names under which the applicant has engaged, does, or proposes to engage in ambulance service;

(4) A description of each ambulance including the make, model, year of manufacture, vehicle identification number, current state license number, the length of time the vehicle has been in use, and the color scheme, insignia, name, monogram and other distinguishing characteristics of the vehicle, a description of the company's program for maintenance of the vehicle, and a description of the vehicle's radio(s);

(5) Proof that the applicant has obtained all licenses and permits required by State or local law or regulation for the type of ambulance service proposed, excluding only a license to provide the service for which application is made;

(6) The names and qualifications of each attendant, driver, or dispatcher employed, or to be employed, in providing ambulance service;

(7) Proof that the applicant possesses and maintains currently valid California Highway Patrol inspection reports for each vehicle listed in the application;

(8) A description of the company's training and orientation programs for attendants, drivers and dispatchers;

(9) Evidence of such financial responsibility and insurance coverage as may be required by the Health Officer pursuant to regulations adopted in accordance with this division;

(10) Identification of the geographical area to be served by the applicant, if required by the department;

(11) As to new applications or transfers as specified in section 4-9-4, a fingerprint receipt for each principal of the applicant, issued by the Orange County Sheriff-Coroner indicating each principal of the applicant has undergone a complete criminal history check, followed by a report from the Orange County Sheriff-Coroner showing no conviction of crimes which would be violations of the provisions of division 4-9-7-(d)(2), (3), (4), (5), (6) or (7);

(12) A list of all substations or offices where equipment and personnel are, or will be based, including hours of operation; and

(13) A description of whether the service proposed by the applicant will include basic life support services or advanced life support service, and, if so:

(i) The number of basic life support service or advanced life support service units to be deployed on each shift;

(ii) The emergency response area(s) to receive basic life support service or advanced life support service; and

(iii) The provisions, if any, for continuing education of attendants.

(14) Such other information as the Health Officer may require in regulations adopted pursuant to this division.

(c) Renewal applications shall be submitted in the same form and require the same materials, as original applications except the requirement of 4-9-5(a)(11).

Sec. 4-9-6. - Investigations.

Upon receipt of a completed application and the required fee, if any, the Health Officer shall make, or cause to be made, such investigation as the Health Officer deems necessary to determine if:

(a) The applicant is a responsible and proper person to conduct, operate or engage in the provision of ambulance services;

(b) The applicant meets the requirements of this division and of other applicable laws, ordinances or regulations.

Sec. 4-9-7. - Issuance or denial of license.

(a) The Health Officer shall issue a license to an applicant if the Health Officer, after completing any investigation required pursuant to this division, determines all requirements of this division have been met and the license fee, if any, set by the Board of Supervisors, has been paid.

(b) In the event of denial, the applicant shall be informed in writing of the reasons therefor.

(c) The licensee shall obtain and keep in force during the term of a license, comprehensive automobile liability insurance and professional liability insurance issued by a company authorized to do business in the State of California, acceptable to the Health Officer, insuring the owner against loss by reason of injury or damage that may result to persons or property from negligent operation or defective construction of such ambulance, or from violation of this division or any other law of the State of California, or the United States.

Said comprehensive automobile liability policy shall be in the sum of not less than $500,000 for combined single limit, bodily injury and property damage. Said professional liability insurance shall be in the sum of not less than $1,000,000 per person and $1,000,000 annual aggregate. Workers' compensation insurance shall be carried covering all employees of the license holder. Before the Health Officer shall issue a license, copies of the policies, or certificates evidencing such policies, shall be filed with the Health Officer. All policies shall contain a provision requiring a thirty (30) day notice to be given to the Department prior to cancellation, modification, or reduction in limits. The amount of comprehensive automobile insurance shall be subject to review and adjustment by the Health Officer pursuant to regulations adopted under this division. In the use of helicopters the equivalent insurance requirements shall apply.

(d) Grounds for denial of a license application shall be:

(1) Failure to meet the requirements of any provisions of this division;

(2) Violation by any principal of an applicant of Penal Code Section 290;

(3) Habitual or excessive use of narcotics or dangerous drugs;

(4) Conviction during the preceding seven (7) years of any crime relating to the use, sale, possession or transportation of narcotics, addictives or dangerous drugs;

(5) Habitual or excessive use of intoxicating beverages;

(6) Conviction during the preceding seven (7) years of any crime punishable as a felony in the State of California;

(7) Conviction of any crime involving moral turpitude, including fraud or intentional dishonesty for personal gain.

(e) In determining the effect of any criminal acts on the issuance or denial of a license, the Health Officer shall consider whether the criminal acts are related to the activities of an ambulance service and shall evaluate the rehabilitation of the persons involved. The Health Officer shall not consider crimes of which the applicant is, or was, accused but not convicted.

Sec. 4-9-8. - License suspension or revocation.

(a) The Health Officer may suspend or revoke license for failure by the licensee to comply, and maintain compliance with, or for violation of, any applicable provisions, standards or requirements of State law or regulation, of this division, or of any regulations promulgated hereunder. Suspension of a license is not a condition precedent to revocation of a license.

(b) Before suspension or revocation, the Health Officer shall give written notice to the licensee. Said notice shall:

(1) Specify the reasons for which the action is to be taken;

(2) Set a hearing for not more than fifteen (15) days nor less than seven (7) days after the date of the notice;

(3) Specify the date, time and place of the hearing; and

(4) Be served on the licensee either by delivery to its principal place of business or to its designated agent for service of such notices, if any.

(c) If the licensee, subsequent to service of a suspension or revocation notice under this Section, remedies some or all of the conditions to which the notice refers, the Health Officer may rescind a suspension or revocation at any time.

(d) At the hearing, the Health Officer has the burden of proof and may present evidence as to why such action should be taken and to answer the evidence presented by the licensee.

(e) The Health Officer may reduce the period of time for hearing under a suspension or revocation notice to no less than twenty-four (24) hours when the Health Officer makes written preliminary findings that such action is necessary to protect the public health, safety and welfare. When, as a result of such an emergency proceeding, a license is suspended or revoked, the licensee may request an additional hearing at which the licensee will have the burden of establishing renewed compliance justifying reinstatement of the license. Such additional hearing will be commenced within five (5) days of the licensee's request. The request for, and the scheduling of, an additional hearing shall not stay operation of the suspension or revocation order.

(f) Hearings conducted pursuant to this section shall be conducted before a hearing officer designated by the Department. At the conclusion of said hearing, the hearing officer shall expeditiously prepare a written summary of the evidence and proposed findings and conclusions for consideration by the Health Care Agency Director.

(g) The Health Care Agency Director shall issue a written decision within thirty (30) days after conclusion of the hearing.

Sec. 4-9-9. - Appeal to Board of Supervisors.

In the event of denial, suspension, or revocation of a license, the applicant or licensee shall have the right to request a hearing before the Board of Supervisors, which hearing shall be requested and conducted in the manner specified in section 5-2-19 of the Codified Ordinances of Orange County.

Sec. 4-9-10. - Notification.

The licensee shall notify the Health Officer within twenty-four (24) hours after any change in ownership or management of the licensee, or any interruption of service of more than twenty-four hours duration, or any substantial change in staffing or equipment. For purposes of this section, the term "substantial change" shall be as defined by regulation adopted pursuant to this division.

Sec. 4-9-11. - Personnel Standards.

(a) A licensee shall only employ personnel performing tasks described in this division who comply with the requirements of this section.

(b) Attendants shall be at least eighteen (18) years of age and trained and competent in the proper use of all equipment, and shall hold current "EMT 1A" certification in compliance with all State laws, rules and regulations. Additionally, each attendant shall hold a license from the Health Officer indicating compliance with this section. Applications for such

licenses shall be in a form required by the Health Officer and shall be accompanied by the fee, if any, established therefor. All applicants for licenses as an attendant shall be subject to the same criminal history review as required for principals of ambulance companies pursuant to this division no less than once every four years. Certificates may be denied, suspended, or revoked in the same form and fashion as that specified for ambulance service licensees in this division. Licenses shall be valid for two years from the date of issuance or certification as an Emergency Medical Technician-1A, whichever is less. Renewal of a license shall be in the same fashion as issuance of a new license.

(c) Each licensee shall have at least one dispatcher. Emergency ambulance service licensees shall have a dispatcher on a twenty-four (24) hour-per-day basis and shall adequately train the dispatcher to radio operation and protocols and to the emergency response area(s) served before said dispatcher begins dispatching emergency calls. For purposes of this section, "adequate" training of a dispatcher shall be that which meets State standards, if any, or County requirements.

(d) Ambulance drivers shall, in addition to the requirements of this division for attendants, maintain an appropriate license issued by the California Department of Motor Vehicles and, if applicable, the Federal Aviation Administration.

Sec. 4-9-12. - Rates.

No licensee shall charge more than those rates approved by the Board of Supervisors for emergency ambulance services.

Sec. 4-9-13. - Usage of ambulance service licensees.

(a) The County shall contract with licensees on a competitive basis for provision of ambulance service in response to emergencies in each emergency response area. Said contracts shall provide for one primary contractor per emergency response area, with such other back-up service by other emergency ambulance service providers as deemed necessary by the County. In awarding these contracts, the County shall consider the comparative value of competing proposals in the same fashion as would be the case were the County evaluating proposals from prospective service providers for other County activities, including consideration of:

(1) The quality of service to be provided;

(2) The level of service to be provided;

(3) The rates charged for services to be provided; and

(4) The cost, if any, to the County.

(b) The Fire Chief shall administer the contracts for ambulance service awarded by the Board of Supervisors under this section. The Fire Chief shall also prepare and keep current emergency response area lists specifying contract providers for each area. The Fire Chief shall include on the list for each emergency response area the provider which has entered into an ambulance service agreement with the County as the primary contractor as well as the emergency ambulance service provider(s) who will provide back-up emergency ambulance service for that area.

(c) In the event no proposals acceptable to the County under the provisions of this section are received for one or more emergency response areas, the County shall designate one or more licensees in that emergency response area to provide emergency ambulance services. From the date of such designation until a regular emergency ambulance service agreement is signed for the affected area(s), provision of emergency ambulance service shall be an express condition of the license and unreasonable or unjustified refusal of such calls shall be a violation of this division.

(d) No person shall provide ambulance service in response to, or as a result of, an emergency, unless that person is a licensee specified in each instance by a physician or public safety agency. A licensee thus specified by a physician need not be a contractor selected pursuant to this section. Any ambulance service operator receiving a request for emergency ambulance service from other than a public safety agency shall immediately, by telephone, notify a public safety agency designated by regulation of the request.

No licensee responding to an emergency shall transport a patient unless:

(1) A paramedic is present at the location of the patient; or

(2) A physician is present at the location of the patient and directs transportation in the absence of a paramedic; or

(3) A safety qualified employee of the Orange County Fire Department, or an appropriate employee of a public safety agency designated by regulation directs transportation in the absence of a paramedic.

Unless otherwise directed by a physician present at the location of the patient, a licensee shall transport a patient pursuant to regulations adopted under section 4-9-14.

Sec. 4-9-14. - Rules and regulations.

(a) As to all sections of this division except section 4-9-13, the Health Officer shall make such rules and regulations and as may be necessary to implement this division. Prior to adoption, proposed rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.

(b) As to section 4-9-13, the Fire Chief shall make such rules and regulations and as may be necessary to implement this division. Prior to adoption, the Fire Chief's rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.

(c) The Health Officer or the Fire Chief or their designee(s) may inspect the records, facilities, transportation units, equipment and method of operation of each licensee whenever necessary and, by the Health Officer, at least annually.

Sec. 4-9-15. - Complaints.

The department, any user, subscriber, public safety agency or consumer who believes, or has reason to believe, that he or another party has been required to pay an excessive charge for services, received inadequate services or services provided were not in compliance with the provision of this division, may file a written complaint with the Department setting forth such allegations. The Department shall notify the ambulance service operator of such complaint. The

ambulance service operator shall file a written response within fifteen (15) calendar days after receipt of notification.

Sec. 4-9-16. - Variance.

As to all but section 4-9-13, the Health Officer may grant variances from the terms of this division if he finds such action is necessary to protect the public health, safety or welfare. As to section 4-9-13, the Fire Chief may grant variances from the terms of this division if he finds such action is necessary to protect the public health, safety or welfare. As to the Health Officer, such variances may include the issuance of a temporary license. No variance shall exceed one hundred and eighty (180) days in duration.

Sec. 4-9-17. - Violation.

Violation of any provision of this division by an ambulance service operator shall be a misdemeanor.

ORDINANCE NO. 21-___

AN ORDINANCE OF THE COUNTY OF ORANGE, CALIFORNIA AMENDING SECTIONS 4-9-1 THROUGH 4-9-17 OF THE CODIFIED ORDINANCES OF THE COUNTY OF ORANGE REGARDING AMBULANCE SERVICE

The Board of Supervisors of the County of Orange, California ordains as follows:

SECTION 1. Sections 4-9-1 through 4-9-17 of Article 1 of Division 9 of Title 4 of the Codified Ordinances of the County of Orange are hereby amended to read as follows:

Sec. 4-9-1. – Intent and ~~purpose.~~ Purpose

It is the intent of this ~~division~~Division to establish ~~general~~ the minimum license requirements for operating ~~procedures and standards for medical transportation services operating within the unincorporated areas~~Ambulance Service within the geographical boundaries of the County in ~~both emergency and other situations,~~order to provide a fair and impartial means of ~~allowing~~licensing responsible ~~private operators~~Ambulance Service Operators and to set forth the competitive process required for the creation of Exclusive Operating Areas.

Sec. 4-9-2 Definitions

The following definitions shall govern the provisions of this Division.

(a) Advanced Life Support or ALS mean special services designed to provide ~~such services~~definitive prehospital emergency medical care, including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of a base hospital as part of a local emergency medical services system at the scene of an emergency, during transport to an acute care hospital, during interfacility transfer, and while in the ~~public interest and to provide a means for the designation of emergency response areas. This division~~emergency department of an acute care hospital until responsibility is ~~intended to be~~ assumed by the emergency or other medical staff of that hospital.

(b) Air Ambulance means any aircraft specially constructed, modified, or equipped, and used ~~as a model for adoption by cities within the County.~~for the primary purposes of responding to emergency calls and transporting critically ill or injured patients whose medical flight crew has at a minimum two (2) Attendants certified or licensed in Advanced Life Support.

~~Sec. 4-9-2. - Definitions.~~

~~For purposes of this division, the following terms are defined:~~

~~(a) *Advanced life support service* and *basic life support service* mean the same as defined in the California Health and Safety Code.~~

(c) ~~(b)~~ Ambulance means ~~a motor~~any vehicle~~, helicopter, or similar vehicle, specifically~~ specially constructed, modified, or equipped, ~~or arranged~~ and used for the purpose of transporting a Patient and is operated by one or more Attendant(s).

(d) Ambulance Service means any activity, business or service that is (i) for hire, profit or otherwise, and (ii) set up for the purpose of transporting ~~patients requiring immediate or ongoing medical services excluding the transportation of such persons to or from locations not providing services as defined in this division~~one or more Patient by Ambulance or Air ambulance.

~~(c) *Ambulance service* means the activity, business or service, for hire, profit, or otherwise, of transporting one or more persons by ambulance; provided, however, ambulance service shall not include the transportation by ambulance by an employer of his or her own employees in an ambulance owned and operated by the employer solely for this purpose.~~

(e) ~~(d) *Ambulance service operator*~~Ambulance Service Operator means any ~~person~~Person who operates or owns an ~~ambulance service~~Ambulance Service.

(f) ~~(e)~~ Attendant means a trained~~,~~ and qualified individual, including, but not limited to, a Driver of an Ambulance or pilot of Air Ambulance, who~~, regardless of whether he or she also serves as driver,~~ is responsible for the care of ~~patients~~a Patient and possesses the certification or other document specified in Section 4-9-11 of this Division.

(g) ~~(f)~~ Basic Life Support or BLS mean emergency first aid and cardiopulmonary resuscitation procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary resuscitation to maintain life without invasive techniques until the victim may be transported or until Advanced Life Support is available.

(h) Board of Supervisors means the Orange County Board of Supervisors.

(i) County means the County of Orange, State of California.

(j) ~~(g) *Department*~~Dispatcher means ~~the~~ an individual, employed by an Ambulance Service Operator, who is responsible for sending an Ambulance to attend to an Emergency.

(k) Driver means an Attendant who drives an Ambulance.

(l) Emergency or Medical Emergency mean a condition or situation in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency.

(m) Emergency Ambulance Services ~~Agency~~ means an Ambulance Service Operator that may utilize its Ambulance or Air Ambulance to respond to an Emergency.

(n) Emergency Medical Services means the services utilized in responding to an Emergency.

(o) Emergency Medical Services Authority or EMSA mean the California Emergency Medical Services Authority.

(p) Emergency Medical Services Plan or EMS System Plan or EMS Plan mean the most recent OCEMS Emergency Medical Services System Plan together with its annual update submitted to EMSA pursuant to Health and Safety Code sections 1797.250 and 1797.254.

(q) Emergency Medical Services System means a specially organized arrangement which provides for the personnel, facilities, and equipment for the effective and coordinated delivery within the County's geographic boundaries of medical care services under emergency conditions.

(r) Exclusive Operating Area or EOA mean the geographical area within the jurisdiction of OCEMS or a subarea defined in the Emergency Medical Services Plan for which OCEMS, upon the recommendation of the County ~~of~~ , restricts operations to one or more Emergency Ambulance Services or providers of Limited Advanced Life Support or Advanced Life Support.

(s) Orange ~~or the~~ County Health Care Agency or Health Care Agency ~~of the County of Orange, or as otherwise~~or HCA mean the Orange County Health Care Agency.

(t) Licensee means an Ambulance Service Operator that has been granted a license under this Division to provide Ambulance Service.

(u) Limited Advanced Life Support means special services designed to provide prehospital emergency medical care limited to techniques and procedures that exceed Basic Life Support but are less than Advanced Life Support.

(v) Medical Control means the medical management of the Emergency Medical Services System.

(w) Medical Director means the Medical Director of OCEMS designated by the ~~Board of Supervisors.~~ County to provide Medical Control and assure medical accountability throughout the planning, implementation, and evaluation of the local Emergency Medical Services System.

~~(h) *Dispatcher* means an individual employed by an ambulance service operator responsible for sending an ambulance to provide ambulance service to a patient.~~

~~(i) *Driver* means an attendant who drives or pilots an ambulance.~~

~~(j)~~ Orange County Emergency ~~means a sudden, unforeseen event giving rise to a need for ambulance service with basic or advanced life support services.~~

~~(k) *Emergency response area* means a geographical location specified by the Fire Chief within which emergency service may be provided under a license.~~

~~(l) *Emergency service* means ambulance service performed in response to an emergency.~~

~~(m) *Fire Chief* means the Director of Fire~~ Medical Services ~~for the County of Orange.~~

~~(n) *Health Officer* means the~~or OCEMS mean Orange County Health ~~Officer or other official~~ Care Agency Emergency Medical Services, which has been designated by the ~~Board of Supervisors of Orange~~ County ~~to perform the Health Officer's functions under this division.~~

~~(o) *Licensee* means an ambulance service operator which has been granted a license under this division to provide ambulance service.~~

(x) ~~(p) *Medical services* means services provided by health care professionals licensed pursuant to the California Business and Professions Code or~~ as ~~specified by regulations adopted pursuant to this division~~the agency having primary responsibility for administration of Emergency Medical Services in the County.

(y) ~~(q)~~ Paramedic means ~~the same as defined in the California~~an individual whose scope of practice to provide Advanced Life Support is according to standards prescribed in and has a valid certificate issued pursuant to Division 2.5 of the Health and Safety Code~~.~~ and Title 22 Regulations.

(z) ~~(r)~~ Patient means a convalescent, infirm, wounded, injured, sick, invalid, or otherwise incapacitated ~~person.~~ individual.

(aa) ~~(s)~~ Person means ~~any~~an individual, firm, corporation, partnership, limited liability company, association, or other group, or combination thereof acting as a unit.

(bb) ~~(t)~~ Physician means a medical doctor or osteopath holding the appropriate valid license or certificate to practice as such ~~with~~within the State of California pursuant to the Business and Professions Code.

(cc) ~~(u)~~ Public ~~*safety agency*~~Safety Agency means ~~any~~a public law enforcement agency, fire protection agency, lifeguard/marine safety agency, or forest ranger agency operating in the County.

(dd) Specialty Care Transport means services provided by registered nurses, physicians, and respiratory therapists who have training and experience in the care and transport of critically ill patients.

Sec. ~~Sec.~~ 4-9-3~~.~~ License Required

(a) A license issued by the Medical Director in accordance with this Division in the name of the applicant is required~~.~~ to operate Ambulance Service within Orange County. To operate an Ambulance Service within Orange County without a valid license issued by the Medical Director is a violation of this Division. Each Ambulance transport of a Patient without a valid license constitutes a separate violation of this Division. A license issued under this Division does not preclude a city's ability to require an Ambulance Service Operator to have a business license to operate within the city.

(~~a) It~~b) A license shall be ~~unlawful~~valid for ~~any person to be an ambulance service operator, or to act in such a capacity either directly or indirectly, without possession of a license issued pursuant to this division.~~

~~A license may specify the specific geographical area within the County in which it is valid; provided, however, with respect to emergency response areas, reference to the emergency response area by a specific number or similar identification shall be sufficient description of geographic limitation. A license shall be valid for~~a period of not more than ~~one calendar year or the expiration~~

~~of the calendar year in which it was issued, whichever is shorter~~365 days, unless earlier suspended, revoked, surrendered, or otherwise terminated.

(~~b)~~ c) The provisions of this ~~division~~Section shall not apply to:

~~(1) Ambulances~~(1) Ambulance Services operated by a public safety agency within Orange County.

(2) Ambulance Services operated at the request of a public safety agency during ~~any "~~a duly declared "state of war emergency~~," ",~~" "state of emergency~~"~~" or ~~"~~"local emergency~~,"~~," as defined in the California Government Code.

(~~2)~~ 3) Ambulance ~~service~~ transporting a ~~patient~~Patient from a location outside of Orange County, regardless of destination.

(~~3)~~ 4) Ambulance ~~service~~ transporting a ~~patient~~Patient by a fixed-wing airplane.

Sec. 4-9-4. ~~–~~ Transfer ~~and term~~ of ~~license.~~ License

~~No~~(a) A license issued ~~pursuant to~~under this ~~division can be transferred by operation of law or otherwise.~~Division is not transferrable. The occurrence of any of the following shall ~~be considered transfers for purposes of this section:~~ render a license invalid and void:

(~~a)~~ 1) Any change in the name or business structure of a licensee, including~~,~~ but not limited to~~,~~ changes from or to:

(~~1)~~ A) A sole proprietorship;

(~~2)~~ B) A partnership, including any change in the membership of the partners;~~ and~~

(~~3)~~ C) A corporation, whether by operation of law or otherwise; and,

(D) A limited liability company, including any change in the ~~shareholders, whether by operation of law or otherwise.~~ managing member(s) thereof.

~~(b)~~ (2) Bankruptcy, an assignment for the benefit of creditors, or the appointment of a receiver.

(~~c)~~ 3) A sale or transfer of over ten (10) percent of the assets of a licensee.

(4) A sale or transfer of over ten (10) percent of the ownership of a licensee.

(5) A merger.

(6) A partial or full assignment of a license.

(b) A licensee may apply to the ~~Health Officer~~Medical Director for an amendment to the terms and conditions of the license~~, which request~~. An application for an amended license shall be processed in the same manner as ~~an original application. Notwithstanding anything in this section to the contrary, licenses may be suspended, revoked, or terminated prior to the expiration date, pursuant to the provisions of this division.~~described in subdivisions (a) through (c) of Section 4-9-5.

Sec. 4-9-5. ~~–~~ Applications~~.~~

(a) Each application for a license under this Division shall be accompanied by an application fee, if any, set by the Board of Supervisors, and be made upon forms prescribed by the ~~Health Officer.~~ Medical Director.

(b) Each applicant shall submit the following:

(1) The ~~names~~applicant's name and ~~addresses~~the address of its principal place of business;

(2) Where the applicant~~(s) and the owner(s) of~~ is a firm, corporation, partnership, association, or other group, or combination thereof acting as a unit, the ~~ambulance(s) and~~ identities of the ~~business and any interest therein;~~ members and/or owners of the applicant;

~~(2)~~ (3) The ~~applicant's~~applicant's training and experience in ~~the~~operating Ambulance Service, other type of Patient transportation, and/or providing care ~~of patients;~~ to Patients;

(~~3)~~ 4) The names under which the applicant has engaged, does, or proposes to engage in ~~ambulance service;~~ Ambulance Services;

(~~4)~~ 5) A description of each ~~ambulance~~Ambulance or Air Ambulance to be used under the license, including the make, model, year of manufacture, ~~vehicle~~ identification number, current state license number, the length of time ~~the vehicle~~it has been in use, ~~and~~ the color scheme, insignia, name, monogram and its other distinguishing characteristics ~~of the vehicle~~, a description of the ~~company's~~applicant's program for its maintenance ~~of the vehicle~~, and a description of ~~the vehicle's~~its radio(s);

(~~5) Proof~~6) Evidence that the applicant has obtained all licenses and permits required by ~~State~~state or local law or regulation for the type of ~~ambulance service~~Ambulance Service proposed~~,~~ (e.g. BLS, ALS, Air-ALS, etc.), excluding only a license to provide the service for which application is made;

~~(6) The names and qualifications of each attendant, driver, or dispatcher employed, or to be employed, in providing ambulance service;~~

(7) ~~Proof~~ Evidence that the applicant possesses and maintains a currently valid ~~California Highway Patrol inspection reports~~"Emergency Ambulance Non-Transferable License," and a "Special Vehicle Identification Certificate" or an "Ambulance Inspection Report" (CHP Form #299) for each ~~vehicle~~Ambulance or Air Ambulance listed in the application;

(8) A description of the ~~company's~~applicant's training and orientation programs for ~~attendants, drivers~~Attendants, Drivers, and ~~dispatchers;~~Dispatchers;

(9) Evidence of such financial responsibility and insurance coverage as may be required by the ~~Health Officer~~Medical Director pursuant to policies and regulations ~~adopted in accordance with~~ the Medical Director adopts pursuant to this ~~division;~~ Division;

(10) Identification of the geographical area to be served by the applicant, if required by ~~the department;~~ OCEMS;

~~(11) As to new applications or transfers as specified in section 4-9-4, a fingerprint receipt for each principal of the applicant, issued by the Orange County Sheriff-Coroner indicating each principal of the applicant has undergone a complete criminal history check, followed by a report from the Orange County Sheriff-Coroner showing no conviction of crimes which would be violations of the provisions of division 4-9-7-(d)(2), (3), (4), (5), (6) or (7);~~

~~(12)~~ (11) A list of all substations or offices where equipment and personnel are, or will be based, including hours of operation; ~~and~~

(~~13)~~ 12) A description of whether the ~~service~~Ambulance Service proposed by the applicant will include ~~basic life support~~ Basic Life Support, Advanced Life Support, and/or Specialty Care Transport services ~~or advanced life support service~~, and, if so:

~~(i)~~ (A) The number of ~~basic life support service~~ Basic Life Support, Advanced Life Support, and/or ~~advanced life support~~Specialty Care Transport service units to be ~~deployed on each shift;~~ licensed;

(~~ii)~~ B) The ~~emergency response~~geographical area~~(s)~~ to receive ~~basic life support service~~ Basic Life Support, Advanced Life Support, Limited Advanced Life Support, and/or ~~advanced life support service~~Specialty Care Transport services; and

(~~iii)~~ C) The provisions, if any, for continuing education of attendants~~.~~ ;

(~~14)~~ 13) Such other information as the ~~Health Officer~~Medical Director may require in regulations ~~adopted~~or policies the Medical Director adopts pursuant to this ~~division.~~ Division.

~~(c)~~ (c) All new applications and applications for an amendment to a current license as specified in subdivision (b) of Section 4-9-4 shall require each principal of the applicant to have Live Scan fingerprint clearance through any applicable law enforcement agency indicating the applicant has undergone a criminal background check and has no denial, suspension, or revocation of a California Highway Patrol license pursuant to California Vehicle Code section 2540 et seq. or is not listed on any federal or state program exclusions list.

(d) Renewal applications shall be submitted on or before October 31 of each calendar year in the same form ~~and require the same materials, as original applications except the requirement of 4-9-5(a)(11).~~as new applications under this Section. Unless otherwise requested by

the Medical Director, the requirements of subdivision (c) of this Section shall not apply to renewal applications.

Sec. 4-9-6. Investigations.

Upon receipt of a completed application and the any required fee, if any, the Health Officer Medical Director shall make, or cause to be made, such investigation as the Health Officer he or she deems necessary to determine if: whether:

(a) The applicant is a responsible and proper person to conduct, operate, or engage in the provision of ambulance services; operation of, Ambulance Service;

(b) The applicant meets the requirements of this division Division and of other applicable laws, ordinances, or regulations.

Sec. 4-9-7. Issuance or denial of license. Denial of Ambulance Service License

(a) (a) The Health Officer Medical Director shall issue a license to an applicant if the Health Officer Medical Director, after completing any investigation required pursuant to this division Division, determines all requirements of this division Division have been met and the any required license fee, if any, set by the Board of Supervisors, has been paid.

(b) (b) The Medical Director shall deny the application if he or she finds any of the following:

(1) the applicant failed to meet the requirements of any provision of this Division;

(2) the applicant made any omission of material fact, or made any false or misleading statement, in the application;

(3) the applicant or any of the individuals identified in the application as required under subdivision (b)(2) of Section 4-9-5 have committed any of the acts delineated in section 480 of the California Business and Professions Code, but subject to the limitations of such denial as specified in said statute. In determining the effect of any acts that fall within the scope of section 480 on the issuance or denial of a license, the Medical Director shall consider whether the acts are related to Ambulance Service and shall evaluate the rehabilitation of the individuals identified in the application to whom the acts apply. The Medical Director shall not consider acts of which the applicant in its organization capacity or the individuals identified in the application is, or was, accused but not convicted.

(4) the operation or any part thereof as described in the application will be detrimental to the public health, safety, or welfare.

(5) the issuance of an ambulance service license to the applicant would be inconsistent with the Emergency Medical Services Plan.

(c) In the event of denial, the applicant shall be informed in writing of the reasons therefor therefore.

(d) The applicant may appeal the denial of its application within five (5) days by submitting to the Medical Director a written request for a hearing. The hearing shall be held within fourteen (14) days of the request in accordance with the procedures set forth in subdivision (c) and (d) of Section 4-9-9 of this Division.

Section 4-9-8 Indemnification and Insurance Provisions

(a) Each licensee shall purchase and maintain, at the licensee's expense, such insurance specified in regulations or policies the Medical Director adopts pursuant to this Division.

(b) Each licensee shall submit to OCEMS the Certificates of Insurance, including all endorsements required therein, necessary to satisfy the insurance requirements of this Section.

Sec. ~~(c) The licensee shall obtain and keep in force during the term of a license, comprehensive automobile liability insurance and professional liability insurance issued by a company authorized to do business in the State of California, acceptable to the Health Officer, insuring the owner against loss by reason of injury or damage that may result to persons or property from negligent operation or defective construction of such ambulance, or from violation of this division or any other law of the State of California, or the United States. Said comprehensive automobile liability policy shall be in the sum of not less than $500,000 for combined single limit, bodily injury and property damage. Said professional liability insurance shall be in the sum of not less than $1,000,000 per person and $1,000,000 annual aggregate. Workers' compensation insurance shall be carried covering all employees of the license holder. Before the Health Officer shall issue a license, copies of the policies, or certificates evidencing such policies, shall be filed with the Health Officer. All policies shall contain a provision requiring a thirty (30) day notice to be given to the Department prior to cancellation, modification, or reduction in limits. The amount of comprehensive automobile insurance shall be subject to review and adjustment by the Health Officer pursuant to regulations adopted under this division. In the use of helicopters the equivalent insurance requirements shall apply.~~

~~(d) Grounds for denial of~~4-9-9 Suspension or Revocation of an Ambulance Service License

The Medical Director may revoke, after a hearing held pursuant to this Section, a license ~~application shall be:~~

~~(1) Failure to meet the requirements of any provisions of this division;~~

~~(2) Violation by any principal of an applicant of Penal Code Section 290;~~

~~(3) Habitual or excessive use of narcotics or dangerous drugs;~~

~~(4) Conviction during the preceding seven (7) years of any crime relating to the use, sale, possession or transportation of narcotics, addictives or dangerous drugs;~~

~~(5) Habitual or excessive use of intoxicating beverages;~~

~~(6) Conviction during the preceding seven (7) years of any crime punishable as a felony in the State of California;~~

~~(7) Conviction of any crime involving moral turpitude, including fraud or intentional dishonesty for personal gain.~~

~~(c) In determining the effect of any criminal acts on the issuance or denial of a license, the Health Officer shall consider whether the criminal acts are related to the activities of an ambulance service and shall evaluate the rehabilitation of the persons involved. The Health Officer shall not consider crimes of which the applicant is, or was, accused but not convicted.~~issued pursuant to this Division

~~Sec.~~ ~~4-9-8. - License suspension or revocation.~~

(a) ~~(a) The Health Officer may suspend or revoke license~~ for failure by the licensee to comply~~, and maintain compliance~~ with~~, or for violation of,~~ any applicable ~~provisions, standards~~provision, standard, or ~~requirements~~requirement of ~~State~~the following: state law or regulation~~, of;~~ this ~~division,~~Division; or ~~of,~~ any regulations ~~promulgated hereunder. Suspension~~ or policies the Medical Director adopts under this Division. Temporary suspension of a license is not a condition precedent to revocation of a license.

(b) ~~(b) Before suspension or revocation, the Health Officer~~The Medical Director shall ~~give~~provide to licensee advanced written notice of his or her intent to revoke the ~~licensee~~license. Said notice shall:

(1) ~~_~~Specify the reasons ~~for~~based on which the ~~action is to be taken;~~ Medical Director is relying in proposing to revoke the license;

(2) ~~_~~Set a hearing for not more than ~~fifteen (15~~twenty (20) days ~~nor~~and not less than seven (7) days after the date of the notice;

(3) ~~_~~Specify the date, time, and place of the hearing~~; and~~ on the proposed revocation;

~~(4)~~ (4) Include the procedures set forth in subdivision (c) of this Section; and

(5) Be served on the licensee either by certified mail delivery to ~~its principal place of business or to~~the address identified in subdivision (b)(1) of Section 4-9-5 or the address of its designated agent for service of such notices, if any.

~~(c) If the licensee, subsequent to service of a suspension or revocation notice under this Section, remedies some or all of the conditions to which the notice refers, the Health Officer may rescind a suspension or revocation at any time.~~

~~(d) At the hearing, the Health Officer has the burden of proof and may present evidence as to why such action should be taken and to answer the evidence presented by the licensee.~~

~~(e) The Health Officer may reduce the period of time for hearing under a suspension or revocation notice to no less than twenty-four (24) hours when the Health Officer makes written preliminary findings that such action is necessary to protect the public health, safety and welfare. When, as a result of such an emergency proceeding, a license is suspended or revoked, the licensee may request an additional hearing at which the licensee will have the burden of establishing renewed compliance justifying reinstatement of the license. Such additional hearing will be commenced within five (5) days of the licensee's request. The request for, and the scheduling of, an additional hearing shall not stay operation of the suspension or revocation order.~~

(c) ~~(f) Hearings conducted pursuant to this section shall be conducted before a hearing officer designated by the Department. At the conclusion of said hearing, the hearing officer shall expeditiously~~The Medical Director shall request from the Orange County Clerk of the Board to, and the Clerk of the Board shall, assign an impartial hearing officer to hear the proposed license revocation. The hearing and the procedures at the hearing shall be informal. The Medical Director shall have the burden of proof by a preponderance of the evidence that the licensee has failed to comply with any applicable provision, standard, or requirement as detailed in subdivision (a) of this Section. The parties may proffer any documentary evidence at the hearing to support their side, provided the parties provide copies of the documentary evidence to each other at least seven (7) days prior to the hearing date. Both parties may offer testimonial evidence by an individual, provided the parties provide the witness names to each other at least seven (7) days prior to the hearing date. The hearing officer may consider any and all evidence, including hearsay evidence, to decide in favor or against the proposed action by the Medical Director.

(d) The hearing officer shall prepare a written summary of the evidence and proposed findings and conclusions for consideration by the ~~Health Care Agency Director.~~ HCA Director no later than seven (7) calendar days from the conclusion of the hearing. The HCA Director shall consider the proposed findings and conclusions of the hearing officer and issue a written decision no later than seven (7) calendar days from receipt of the hearing officer's proposed findings and conclusions. The decision of the HCA Director shall be final.

~~(g) The Health Care Agency Director shall issue a written decision within thirty (30) days after conclusion of the hearing.~~

~~Sec. 4-9-9. - Appeal to Board of Supervisors.~~

~~In the event of denial, suspension, or revocation of a license, the applicant or licensee shall have the right to request a hearing before the Board of Supervisors, which hearing shall be requested and conducted in the manner specified in section 5-2-19 of the Codified Ordinances of Orange County.~~

(e) The Medical Director may temporarily suspend a license issued pursuant to this Division where such action is necessary to protect the public health, safety, or welfare of County residents. The temporary suspension under this subdivision shall be effective upon issuance of a written notice of temporary suspension by the Medical Director and shall remain in effect until such time the conditions stated therein are satisfied. The notice shall be served on the licensee either by certified mail delivery to the address identified in subdivision (b)(1) of Section 4-9-5 or to the address of its designated agent for service of such notices, if any. The Medical Director may subsequently proceed with the procedures specified in subdivisions (a) through (c) of this Section to initiate the revocation of the license if (i) he or she deems revocation of the license is necessary for the protection of the public health, safety, or welfare of the County residents, or (ii) the licensee does not comply with the conditions the Medical Director specifies in the notice of temporary suspension within the allotted time, including any reasonable extensions thereof.

(f) In the event a license is revoked, as specified in this Section, the licensee shall no longer be considered a licensed Ambulance Service Operator in Orange County and its license shall be deemed invalid and void.

(g) A hearing specified in subdivision (c) of this Section shall not be required if a licensee voluntarily surrenders its license or fails to renew its license before its expiration. In such

cases, the licensee shall no longer be considered a licensed Ambulance Service Operator in Orange County and its license shall be deemed invalid and void.

Sec. ~~Sec.~~ 4-9-10~~.~~ ~~–~~ Notification~~.~~

The licensee shall notify the ~~Health Officer within twenty-four (24) hours after~~Medical Director 60 days in advance of any change in ownership or management of the licensee~~, or any~~. The Medical Director shall also be notified in advance of any planned or known interruption of service of more than twenty-four (24) hours duration, or any substantial change in staffing or equipment. ~~For purposes of this section, the term "substantial change" shall be as defined by regulation adopted pursuant to this division~~For unexpected interruptions in service, staffing, or equipment, the Medical Director shall be contacted as soon as possible following the interruption in service.

Sec. ~~Sec.~~ 4-9-11~~.~~ ~~–~~ Personnel Standards~~.~~

(a) ~~(a)~~ A licensee shall only employ personnel performing tasks described in this ~~division~~Division who comply with the requirements of this ~~section.~~Section and as specified in the regulations and policies the Medical Director adopts under this Division.

~~(b) Attendants shall be at least eighteen (18) years of age and trained and competent in the proper use of all equipment, and shall hold current "EMT 1A" certification in compliance with all State laws, rules and regulations. Additionally, each attendant shall hold a license from the Health Officer indicating compliance with this section. Applications for such licenses shall be in a form required by the Health Officer and shall be accompanied by the fee, if any, established therefor. All applicants for licenses as an attendant shall be subject to the same criminal history review as required for principals of ambulance companies pursuant to this division no less than once every four years. Certificates may be denied, suspended, or revoked in the same form and fashion as that specified for ambulance service licensees in this division. Licenses shall be valid for two years from the date of issuance or certification as an Emergency Medical Technician-1A, whichever is less. Renewal of a license shall be in the same fashion as issuance of a new license.~~

(b) ~~(c)~~ Ambulance drivers shall maintain an appropriate driver's license issued by the California Department of Motor Vehicles. Air Ambulance pilots shall meet the applicable Federal Aviation Administration requirements to operate an Air Ambulance.

(c) Each Ambulance Attendant shall possess the following:

(1) a valid Emergency Medical Technician (EMT) certificate or a valid Paramedic license, and

(2) an accreditation with OCEMS as identified in subdivision (f) of this Section.

(d) An Air Ambulance Attendant shall possess the following:

(1) a valid license or certification as appropriate for the level of care provided to Patients, and

(2) an accreditation with OCEMS as identified in subdivision (f) of this Section.

(e) An individual employed as an Ambulance Attendant or as an Air Ambulance Attendant who possesses a valid license by the State of California to serve as a physician or as a registered nurse shall not be required to maintain an Emergency Medical Technician (EMT) certificate or Paramedic license. The Medical Director may adopt such regulations or policies, as deemed necessary, governing physicians and registered nurses when serving as Ambulance Attendants.

(f) Applications for OCEMS accreditation shall be considered by the Medical Director under regulations or policies the Medical Director adopts pursuant to this Division. Applications for OCEMS accreditation shall be in a form required by the Medical Director and shall be accompanied by the established fee, if any, set by the Board of Supervisors.

Each licensee shall have at least one ~~dispatcher. Emergency ambulance service licensees shall have a dispatcher~~(1) Dispatcher on duty on a twenty-four (24) hour-per-day basis~~ and~~. Licensees shall adequately train ~~the dispatcher to~~ Dispatchers on radio operation and protocols ~~and~~related to the emergency response area(s) served before said ~~dispatcher~~Dispatcher begins dispatching emergency calls. For purposes of this ~~section, "~~subdivision, "adequate~~"~~" training of a ~~dispatcher~~Dispatcher shall be that which meets ~~State~~ standards~~, if any, or County requirements.~~

(g) ~~(d) Ambulance drivers shall, in addition to the~~ set by OCEMS and applicable State requirements ~~of this division for attendants, maintain an appropriate license issued by the California Department of Motor Vehicles and, if applicable, the Federal Aviation Administration.~~.

Sec.

~~Sec.~~ 4-9-12~~. –~~ Rates~~.~~

No licensee shall charge more than those rates approved by the Board of Supervisors for ~~emergency ambulance services.~~Emergency Ambulance Services.

~~Sec.~~ Sec. 4-9-13~~. Usage~~ Exclusive Operating Areas

(a) Except as provided in subdivision (b) of ~~ambulance service licensees.~~ this Section, Emergency Ambulance Services, Limited Advanced Life Support, or Advanced Life Support services in an EOA created by OCEMS pursuant to Health and Safety Code section 1794.224 may only be provided by the licensed Ambulance Service Operator that has an existing contract with the County to provide such services. In accordance with section 1797.224, the County shall use a competitive process consistent with the Emergency Medical Services Plan in awarding contracts to licensees for provision of Emergency Ambulance Services in an EOA created by OCEMS pursuant to Health and Safety Code section 1794.224. As expressly stated in Health and Safety Code section 1797.224, no competitive process is required if OCEMS develops or implements an EMS Plan that continues the use of existing providers operating within the County in the manner and scope in which the services have been provided without interruption since January 1, 1981, and nothing in the creation of an EOA supersedes Health and Safety Code section 1797.201.

~~(a) The County shall contract with licensees on a competitive basis for provision of ambulance service in response to emergencies in each emergency response area. Said contracts shall~~

~~provide for one primary contractor per emergency response area, with such other back-up service by other emergency ambulance service providers as deemed necessary by the County. In awarding these contracts, the County shall consider the comparative value of competing proposals in the same fashion as would be the case were the County evaluating proposals from prospective service providers for other County activities, including consideration of:~~

~~(1) The quality of service to be provided;~~

~~(2) The level~~ (b) A Licensee may provide Ambulance Services in response to an Emergency where expressly requested for response to that specific Emergency by OCEMS, a physician, a public safety agency, or the Ambulance Service Operator identified in subdivision (a) of this Section. County licensure is not required for mutual aid responses by out-of~~ service to be provided;~~

~~(3) The rates charged for services to be provided; and~~

~~(4) The cost, if any, to the County.~~

~~(b) The Fire Chief shall administer the contracts for ambulance service awarded by the Board of Supervisors under this section. The Fire Chief shall also prepare and keep current emergency response area lists specifying contract providers for each area. The Fire Chief shall include on the list for each emergency response area~~-county Ambulance Service Operators where the ~~provider which has entered into an ambulance service agreement with the County as the primary contractor as well as the emergency ambulance service provider(s) who will provide back-up emergency ambulance service for that area.~~

~~(c) In the event no proposals acceptable to the County under the provisions of this section~~ services are ~~received for one or more emergency response areas, the County shall designate one or more licensees in that emergency response area to provide emergency ambulance services. From the date of such designation until a regular emergency ambulance service agreement is signed for the affected area(s), provision of emergency ambulance service shall be an express condition of the license and unreasonable or unjustified refusal of such calls shall be a violation of this division.~~

~~(d) No person shall provide ambulance service in response to,~~requested by OCEMS or ~~as a result of, an emergency, unless that person is a licensee specified in each instance by a physician or public safety agency. A licensee thus specified by a physician need not be a contractor selected pursuant to this section.~~a public safety agency. Any ~~ambulance service operator~~Ambulance Service Operator receiving a request for ~~emergency ambulance service~~Emergency Ambulance Services from other than a public safety agency, physician, OCEMS, or the primary Emergency Ambulance Services contractor of the respective EOA shall immediately~~, by telephone,~~ notify ~~a~~OCEMS and the public safety agency designated by regulation of the request.

~~No licensee responding~~(c) No Ambulance or Air Ambulance dispatched to an emergency shall transport a ~~patient~~Patient unless:

(1) ~~(1) A paramedic~~A public safety agency is present at the location of the ~~patient; or~~ Patient or authorizes transport via dispatch; or

(2) ~~(2)~~ A physician is present at the location of the ~~patient~~Patient and directs transportation in the absence of a ~~paramedic~~public safety agency; or

(3) Permitted by OCEMS polices or regulations.

Sec. ~~(3) A safety qualified employee of the Orange County Fire Department, or an appropriate employee of a public safety agency designated by regulation directs transportation in the absence of a paramedic.~~

~~Unless otherwise directed by a physician present at the location of the patient, a licensee shall transport a patient pursuant to regulations adopted under section 4-9-14.~~

4-9-14 Policies and Regulations

The Medical Director shall adopt~~Sec. 4-9-14. - Rules and regulations.~~

~~(a) As to all sections of this division except section 4-9-13, the Health Officer shall make~~ such ~~rules~~policies and regulations ~~and~~ as may be necessary to implement the provisions of this ~~division~~Division. Prior to adoption, proposed ~~rules and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.~~

(a) ~~(b) As to section 4-9-13, the Fire Chief shall make such rules and regulations and as may be necessary to implement this division. Prior to adoption, the Fire Chief's rules~~policies and regulations shall be submitted to the Orange County Emergency Medical Care Committee for comment.

(b) ~~(c)~~ The ~~Health Officer~~Medical Director or ~~the Fire Chief~~his or ~~their~~her designee(s) may inspect the records, facilities, transportation units, equipment, and method of ~~operation~~operating of each licensee whenever necessary ~~and, by the Health Officer, at least annually.~~ .

Sec. 4-9-15. ~~-~~ Complaints~~.~~

~~The department, any user, subscriber, public safety agency or consumer~~Any individual who believes, or has reason to believe, that he or ~~another party~~she or someone else has been required to pay an excessive charge for ~~services~~Ambulance Services, received inadequate ~~services~~Ambulance Services, or ~~services~~Ambulance Services provided were not in compliance with ~~the~~any provision of this ~~division~~Division or applicable laws and regulations or guidelines, may file a written complaint with ~~the Department~~OCEMS setting forth such allegations. ~~The Department~~OCEMS shall ~~notify the ambulance service operator of such~~ investigate the complaint~~. The ambulance service operator shall file a written response within fifteen (15) calendar days after receipt of notification.~~ and take appropriate action consistent with this Division.

Sec. 4-9-16. ~~-~~ Variance~~.~~

~~As to all but section 4-9-13, the Health Officer may grant variances from the terms of this division if he finds such action is necessary to protect the public health, safety or welfare. As to section 4-9-13, the Fire Chief~~The Medical Director may grant variances from the terms of this ~~division~~Division if he or she finds such action is necessary to protect the public health, safety, or welfare~~. As to the Health Officer, such~~ of County residents. Such variances may include the issuance of a temporary license. No variance shall exceed one hundred and eighty (180) days in duration.

Sec. 4-9-17. ~~-~~ Violation~~.~~

Violation of any provision of this ~~division~~Division by an ~~ambulance service operator~~Ambulance Service Operator shall be a misdemeanor.

Sec.

4-9-18 Additional Provisions

(a) If any section, paragraph, sentence, clause, phrase or portion of this Division is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions thereof. The Board of Supervisors hereby declares that it would have adopted this Division irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance be enforced.

(b) This Division shall be construed in accordance with the laws of the State of California, including but not limited to, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act set forth in California Health and Safety Code sections 1797, et seq., and shall not be construed in a way that would result in conflict with, or preemption by, any such laws.

State of California Emergency Medical Services Law
Health & Safety Code Division 2.5
1797.224. (Creation of Exclusive Operating Areas)

A local EMS agency may create one or more exclusive operating areas in the development of a local plan, if a competitive process is utilized to select the provider or providers of the services pursuant to the plan. No competitive process is required if the local EMS agency develops or implements a local plan that continues the use of existing providers operating within a local EMS area in the manner and scope in which the services have been provided without interruption since January 1, 1981. A local EMS agency which elects to create one or more exclusive operating areas in the development of a local plan shall develop and submit for approval to the authority, as part of the local EMS plan, its competitive process for selecting providers and determining the scope of their operations. This plan shall include provisions for a competitive process held at periodic intervals. Nothing in this section supersedes Section 1797.201.*(Added by Stats. 1984, Ch. 1349, Sec. 3.)*



AAOC
Ambulance Association of Orange County
PROFESSIONALS WHO CARE

October 20, 2020

Tammi McConnell, MSN, RN, MICN, PHN
Administrator
Orange County Health Care Agency
Emergency Medical Services
405 W. Fifth Street, Suite 301A
Santa Ana, CA 92701

Dear Ms. McConnell,

On behalf of the Ambulance Association of Orange County I want to thank you for affording us the opportunity to meet and confer regarding the proposed amendments to the Ambulance Ordinance contained in Sections 4-9-1 through 4-11-19 of the Codified Ordinances of the County of Orange.

We appreciate your consideration and are grateful that you provided an occasion for us to voice our concerns. Clearly, the agency heard us, and has addressed them to our satisfaction.

Based on our meeting and review of the recommended changes we feel comfortable with supporting the Agency's proposal to amend Ambulance Ordinance 3517.

Sincerely,

Chad Druten
President

1517 West Braden Court, suite A ▼ Orange, CA 92868 ▲ 714.288.8825
www.aaoc.net

MEMORANDUM

To: Clerk of the Board

From: Doug Chaffee, Fourth District Supervisor

Date: December 9. 2020

RE: Agenda Item for the December 15, 2020 Board of Supervisors Meeting

S37B

Subject: REAPPOINTMENT TO THE SENIOR CITIZENS ADVISORY COUNCIL

Supervisor Doug Chaffee respectfully requests the Clerk of the Board place an agenda item to be considered during the December 15, 2020 Board of Supervisors meeting. The item is to consider reappointing Phillip Orland to the Fourth District seat on the Senior Citizens Advisory Council for the term ending 12/31/21.

RECEIVED
2020 DEC -9 AM 9:27
CLERK OF THE BOARD
BOARD OF SUPERVISORS

APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

(FOR COUNTY USE ONLY)

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):

Senior Citizens Advisory Council

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: ☐ First ☐ Second ☐ Third ■ Fourth ☐ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

Phillip | | Orland
First Name | Middle Name | Last Name

Street Address | City | State | Zip Code

Home Phone Number | Cell Phone Number

Email Address

CURRENT EMPLOYER: Retired

OCCUPATION/JOB TITLE:

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER:

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: ■ YES ☐ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER? ■ YES ☐ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN: Orange

LIST ALL CURRENT PROFESSIONAL OR COMMUNITY ORGANIZATIONS AND SOCIETIES OF WHICH YOU ARE A MEMBER.

ORGANIZATION/SOCIETY	FROM (MO./YR.)	TO (MO./YR.)
Retired Los Angeles City Employees Inc.	6/2013	12/2020
City Club Of Los Angeles	1/2017	12/2020
Men in Leisure service	1/2010	12/2020

WITHIN THE LAST FIVE YEARS, HAVE YOU BEEN AFFILIATED WITH ANY BUSINESS OR NONPROFIT AGENCY(IES)? ■YES □ NO

DO YOU OWN REAL OR PERSONAL PROPERTY OR HAVE FINANCIAL HOLDING WHICH MIGHT PRESENT A POTENTIAL CONFLICT OF INTEREST? □YES ■ NO

HAVE YOU BEEN CONVICTED OF A FELONY OR MISDEMEANOR CRIME SINCE YOUR 18TH BIRTHDAY? YOU ARE NOT REQUIRED TO DISCLOSE ANY OF THE FOLLOWING: ARRESTS OR DETENTIONS THAT DID NOT RESULT IN A CONVICTION; CONVICTIONS THAT HAVE BEEN JUDICIALLY DISMISSED, EXPUNGED OR ORDERED SEALED; INFORMATION CONCERNING REFERRAL TO AND PARTICIPATION IN ANY PRETRIAL OR POSTRIAL DIVERSION PROGRAM; AND CERTAIN DRUG RELATED CONVICTIONS THAT ARE OLDER THAN TWO YEARS, AS LISTED IN CALIFORNIA LABOR CODE § 432.8 (INCLUDING VIOLATIONS OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 11357(B) AND (C), 11360(C) 11364, 11365 AND 11550 – AS THEY RELATE TO MARIJUANA)?

□YES ■ NO

IF YES, PLEASE EXPLAIN AND ATTACH ADDITIONAL SHEETS, IF NECESSARY.

PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

With my experience over 40 years serving older adults I feel I can use my expertise to enhance the operation of council.

DATE: 12/4/2020 **APPLICANTS SIGNATURE:** P Orland

CLERK OF THE BOARD OF SUPERVISORS USE ONLY – DO NOT WRITE BELOW THIS LINE

Date Received: _____ Received by: _____
Deputy Clerk of the Board of Supervisors

Date referred: _____

To: □ BOS District 1 □ BOS District 2 □ BOS District 3 □ BOS District 4 □ BOS District 5

□ All BOS □ BCC Contact Person Name _____

PHILLIP ORLAND

VOLUNTEER WORK

2018 – Present Los Angeles City Club
Board Member
➢

2015 – Present Retired Los Angeles City Employees, Inc.
Director
➢

2011 – Present Los Angeles City Employees Retirement System
Welness Champion
➢ Worked on Health benefits program for 17,000 retirees

2010 – Present Men in Leasure Service
Board Member
➢

2010 – 2016 OneOC
Board Member
➢ Worked with Retired Senior Volunteer program

PROFESSIONAL EXPERIENCE

2005 – 1/2/2010 City of Los Angeles
Principal Recreation Supervisor
➢ Citywide activities/responsibilities:
- Professional training development of fulltime recreational staff
- Represent regional interests on citywide various committees
- Represent Recreation and Parks Dept. with council and mayor offices
- Head up disaster preparedness programs with LA. Fire and Police.

2006 – 2008 California State University at Dominguez Hills
Instructor
➢ Commercial Receation and Marketing classes, upper division

1998 – 2004 City of Los Angeles
Recreation and Parks, Supervisor, Harbor District
➢ District activities/responsibilities
- Assign, review, train, discipline 35 fulltime and 150 partime staff
- Supervise budgets of district centers, after school programs, and expenditures
- Collaborate with city and outside agencies
- Manage grant funded programs
- Development of Park Advisory Boards

EDUCATION

B.A., Recreation California State University at Long Beach

CREDENTIALS AND/OR TRAINING

Intergroup Relations training, Loyola Marymount
Community Service Award, Cal State University, Long Beach (2015)
VietNam Veteran, Honorable Discharge, U.S. Navy

County Executive Office

S37C

Memorandum

December 2, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.02 10:24:07 -08'00'

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: County Executive Office
Subject: The Crossroads at Washington First Amendment to Option Agreement
Districts: 1

Reason for supplemental: The Related Companies of California has recently expended funds on non-refundable deposits for tax credits and environmental assessment of the property underlying the Crossroads at Washington project. Related has requested assurances from the County and City of Santa Ana regarding these expenditures prior to year-end. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: _____

Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item S37C
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE:	12/15/2020
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	1
SUBMITTING AGENCY/DEPARTMENT:	County Executive Office
DEPARTMENT HEAD REVIEW:	Thomas A. Miller *Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Thomas A. Miller (714) 834-6019 Dylan Wright (714) 480-2788

RECEIVED
2020 DEC -9 AM 11:47
CLERK OF THE BOARD
BOARD OF SUPERVISORS
ORANGE COUNTY

SUBJECT: The Crossroads at Washington First Amendment to Option Agreement

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2020.12.02 10:23:05 -08'00'	Approved to Form	Discussion
CEO Signature	*Action* *County Counsel Signature*	3 Votes Board Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** See Financial Impact Section

Staffing Impact: No **# of Positions:** N/A **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: See Financial Impact Section **County Audit in last 3 years:** No

Prior Board Action: 02/25/2020 #7, 07/16/2019 #28

RECOMMENDED ACTION(S):

1. Find that Resolution No. 20-008 and its findings pursuant to Government Code 26227 apply to the First Amendment to Option Agreement proposed herein.

2. Approve and authorize the Chief Real Estate Officer or designee to execute the First Amendment to Option Agreement with Washington Santa Ana Housing, L.P. and Housing Authority of the City of Santa Ana, in substantially the form attached, with minor modifications that do not materially alter the terms or financial obligations to the County, and amendments thereto that also do not materially alter the terms or financial obligations to the County, with approval of County Counsel, and perform all activities specified under the terms of the First Amendment to Option Agreement.

SUMMARY:

Approval of the First Amendment to Option Agreement will provide for activities that support the completion of due diligence and environmental cleanup necessary to make the property suitable for the Crossroads at Washington, an affordable permanent supportive housing project, as well as to secure Further Consolidated Appropriations Act Credits, which are necessary to finance the development.

BACKGROUND INFORMATION:

On July 16, 2019, the Board of Supervisors (Board) selected The Related Companies of California, LLC (Developer) for the lease and development of County of Orange (County) and Housing Authority of the City of Santa Ana (City Agency) owned property, located at 1126 E. Washington Avenue, Santa Ana (Premises), for an 86-unit affordable permanent supportive housing project to be known as The Crossroads at Washington (Project), and authorized the Chief Real Estate Officer to negotiate an option agreement and ground lease agreement with the Developer.

On February 25, 2020, the Board approved a 36-month term option agreement (Option Agreement) between the County and City Agency (collectively, Optionor) and Washington Santa Ana Housing Partners, L.P. (Optionee), a limited partnership formed by the Developer and co-Developer, A Community of Friends, to conduct due diligence and obtain entitlements for the Project. The Board also approved a 65-year term ground lease agreement (Ground Lease), which is to be entered into after satisfaction of the conditions set forth in the Option Agreement. As part of these approvals, the Board adopted Resolution No. 20-008 (Attachment A), which made certain findings under Government Code 26227 that found, "the activities described in the Option Agreement and Ground Lease and the approval of the Option Agreement and Ground Lease, meet the social needs of the population of the County and therefore will further the goals of the County by providing affordable and permanent supportive housing to the residents of Orange County." These findings would also apply to the amendment being proposed herein as the Project and its purposes have not changed.

Option Agreement and Site Assessment

During the option term, the Optionee is required to satisfy a number of conditions set forth in the Option Agreement in order to exercise its rights to ground lease the property. These conditions include: submittal and approval of preliminary plans detailing the development; compliance with environmental requirements for the development; approval of general plan conformity; submittal of construction drawings after approval of funding by the California Tax Credit Allocation Committee (TCAC); approval of permits necessary to commence construction; and compliance with pre-conditions to the Ground Lease.

Optionee is actively pursuing its due diligence to assess the Project's feasibility, including ongoing environmental assessment of the Premises to determine the nature and extent of contamination located on the Premises and steps necessary to mitigate or remediate such contamination. An initial Phase I environmental investigation was conducted on October 19, 2019, which indicated the likely presence of hydrocarbon contamination on the Premises in view of past uses that would require offsite disposal of soil, a manageable mitigation solution. A Phase II Environmental Site Assessment (ESA) Report, prepared on February 19, 2020, identified unexpected contaminants, including tetrachloroethylene,[1] and recommended additional investigations to determine the extent of the soil contamination. Additional assessments in May and September of 2020 concluded that the levels of contaminants might warrant environmental oversight by a public agency and that further studies would be needed before mitigation measures could be pursued.

[1] Tetrachloroethylene is also known by other names, including tetrachloroethene, or perchloroethylene, and is commonly referred to as "PCE" or "PERC."

Consequently, Optionor and Optionee agreed to apply to the Orange County Health Care Agency (OCHCA) to serve as the oversight agency under its voluntary environmental oversight program. OCHCA is currently providing this oversight. The extent of this contamination is still unknown, and a potential offsite source could be the point source for this contamination. OCHCA oversight should help with enforcement mechanisms that might be necessary to help address any such offsite contamination source. The Optionee has incurred over $100,000 of additional environmental assessment expenses beyond the original Phase II ESA Report.

Tax Credit Reservation
Optionee has invested significant staff time and financial resources in the Project to secure funding and compete for Low-Income Housing Tax Credits from the TCAC while conducting environmental due diligence. To date, the Optionee has incurred over $695,000 in third-party predevelopment expenses, over $500,000 in staff overhead and is committed to investing more staff time to the Project.

Due to the highly competitive nature of receiving tax credit allocations in California (e.g., competitions are typically oversubscribed by 300 percent), Optionee was unsuccessful in securing a tax credit reservation in its initial TCAC application submittal during the 2020 First Competitive Application Funding Round in March 2020. Optionee resubmitted a tax credit application in TCAC's Second Competitive Application Funding Round in July 2020 and was successful in securing a reservation of special, one-time Further Consolidated Appropriations Act (FCAA), 2020 federal credits.

To assist with Project finance, Optionee has applied for financing for the proposed Project and has received a reservation of FCAA credits from TCAC for the Project. The reservation of FCAA Credits required non-refundable deposits, comprised of a Performance Deposit in the amount of $107,386 and an Allocation Fee of $107,386 for a total of $214,772, both of which have been made by Optionee. Unlike typical nine percent TCAC projects that require competitive nine percent projects to start construction within 180/194 days of the tax credit award, TCAC's September 1, 2021, deadline to return FCAA credits for the Project allows flexibility for the Optionee to start construction whenever feasible as long as the Project is completed by December 31, 2023.

First Amendment to Option Agreement
Optionor and Optionee have come to terms on a proposed amendment to the Option Agreement to provide for the reimbursement to Optionee under certain conditions as addressed in the First Amendment to Option Agreement (Attachment B), of the non-refundable deposits made by Optionee to reserve the FCAA Credits and the funding of a portion of the environmental assessment costs incurred in the investigation of the Premises. This funding will only be provided if the Project is ultimately not feasible and does not go forward, but the Optionee reports that this backstop (with 50 percent coming from the County and 50 percent coming from the City Agency) makes the Project more feasible in the short term and allows them to move forward with the FCAA process and the additional environmental work.

Additional investigations are warranted with OCHCA involvement. The Optionee has requested that the Optionor also assist with these costs, as the property owners. The parties have agreed, in the proposed First Amendment to Option Agreement, that the County and City Agency will each provide a $50,000 back-stop for the additional environmental costs as well. These funds will also only be provided if the Project is ultimately not feasible and does not go forward. If they are paid out, the Optionee will be required to provide any and all environmental tests and results to the Optionor as a condition of that payment. Optionor acknowledges that Optionee may request additional reimbursement in the future once further environmental assessment and site remediation costs have been identified. These costs and reimbursements would be documented in a subsequent amendment to the Board to address this matter. In the meantime, Optionee

will pursue outside funding sources that may help with financing of these future assessment and site mitigation costs.

The total potential cost to the County would be $157,386, which would not be incurred until FY 2021-22, if at all, if the conditions set forth in the proposed First Amendment to Option Agreement occur. The City of Santa Ana, through the City Agency, is also making the same commitment to support the Project.

Compliance with CEQA
The proposed project was previously determined not to be a project within the meaning of CEQA Guidelines Section 15378, and is therefore not subject to CEQA since it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change as determined on February 25, 2020, when the original option and lease agreement was approved by the Board.

FINANCIAL IMPACT:

Approval of the First Amendment to Option Agreement will not generate any revenue or costs during FY 2020-21, but may be anticipated to cost $157,386 in FY 2021-22 should certain conditions occur as described in the First Amendment to Option Agreement. Any costs in FY 2021-22, if applicable, would be funded 100 percent from Fund 135.

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:
OC Community Resources/Housing & Community Development

ATTACHMENT(S):
Attachment A - Resolution No. 20-008
Attachment B - First Amendment to Option Agreement

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

February 25, 2020

WHEREAS, California Government Code section 26227 ("Section 26227") authorizes the Board of Supervisors to expend money from the general fund of the County to establish County programs deemed by the Board of Supervisors to be necessary to meet the social needs of the population of the county, including but not limited to, the areas of health, law enforcement, public safety, rehabilitation, welfare, education, and legal services, and the needs of physically, mentally and financially handicapped persons and aged persons; and

WHEREAS, Section 26227 further authorizes officers and employees to use County resources and property to carry out any such program established by the Board of Supervisors; and

WHEREAS, the County, and the City of Santa Ana ("City"), working in conjunction with The Related Companies of California, LLC ("Developer") have developed a plan for an affordable housing project on property to be owned jointly by the City and County located at 1126 E. Washington Avenue, Santa Ana ("Project"); and

WHEREAS, the Project consists of new construction of a four-story apartment community consisting of 86 units (85 rental units), of which 43 units are set aside for formerly homeless households; and

WHERAS, the co-Developer and lead service provider for the Project, A Community of Friends ("ACOF"), is a 501(c)(3) nonprofit affordable housing developer, manager and service provider with over 30 years of experience, and will along with the Developer construct, develop, operate and maintain the Project pursuant to a 65-year Ground Lease with the County and the City;

WHEREAS, Developer and ACOF have formed Washington Santa Ana Housing Partners, L.P., a California limited partnership, to develop the Project;

WHEREAS, the Project will assist the County in fulfilling its mission of providing affordable and permanent supportive housing to the residents of Orange County.

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:

1. Find the activities described in the Option Agreement and Ground Lease and the approval of the Option Agreement and Ground Lease, meet the social needs of the population of the County and therefore will further the goals of the County by providing affordable and permanent supportive housing to the residents of Orange County.
2. Deem the programs proposed by the Project to be necessary to assist in meeting the aforementioned needs of the County.
3. Approve the Option Agreement and Ground Lease for a 65-year term, for the construction, entitlement, operation, maintenance, and management of The Crossroads at Washington on County and City owned property located at 1126 E. Washington Avenue, Santa Ana, and authorize the Chief Real Estate Officer or designee to execute the Option Agreement and Ground Lease in substantial conformance with the attached form, with approval of County Counsel.
4. Authorize the use of County resources, including, but not limited to, property and employee administration of such programs, to support the above described services and the Project.

FIRST AMENDMENT

TO

OPTION AGREEMENT

THIS FIRST AMENDMENT TO OPTION AGREEMENT ("**Amendment**") is made November ___, 2020, ("**Effective Date**") by and between the COUNTY OF ORANGE, a political subdivision of the State of California, the HOUSING AUTHORITY OF THE CITY OF SANTA ANA, a public body, corporate and politic, (respectively, the "**County**" and the "**Agency,**" and collectively "**Optionor**") and WASHINGTON SANTA ANA HOUSING PARTNERS, L.P., a California limited partnership (hereinafter called "**Optionee**"). Optionor and Optionee may sometimes hereinafter individually be referred to as "**Party**" or jointly as "**Parties**."

Recitals

A. Optionor and Optionee are parties to that certain Option Agreement dated February 25, 2020 ("**Option Agreement**"), wherein the Optionor granted Optionee an option to ground lease the Premises, consisting of the Agency Property and the County Property.

B. Optionee is actively pursuing its due diligence to assess the feasibility of constructing an affordable housing project on the Premises known as Crossroads at Washington ("**Project**"). The Agency and County have made certain commitments to fund and support the Project.

C. Optionor and Optionee are cooperatively engaged in the ongoing environmental assessment of the Premises to determine the nature and extent of contamination located on the Premises and steps necessary to mitigate or remediate such contamination.

D. Optionee has applied for financing for the proposed Project and has received a reservation of Further Consolidated Appropriations Act, 2020 ("FCAA") Credits from the California Tax Credit Allocation Committee for the Project. The reservation of FCAA Credits required non-refundable deposits, comprised of a Performance Deposit in the amount of $107,386 and an Allocation Fee of $107,386 for a total of $214,772, which have been made by Optionee.

E. Optionor and Optionee desire to amend the Option Agreement to provide for (i) the reimbursement to Optionee of the non-refundable deposits made by Optionee to reserve the FCAA Credits, and (ii) the funding of a portion of the environmental assessments costs incurred in the investigation of the Premises, both on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and in the Option Agreement, and other good and valuable consideration the receipt of which is hereby acknowledged, the Parties agree to amend the Option Agreement as follows:

1. All terms not specifically defined herein shall have the meaning set forth in the Option Agreement.

2. Reimbursement of FCAA Credit Deposits. The County and Agency hereby agree to reimburse Optionee for the FCAA Credit deposits by each making a payment of $107,386 to Optionee, if each of the following two conditions occur:

   (a) On or before August 31, 2021, Optionee determines it cannot complete the Project by December 31, 2023, and Optionee returns the FCAA Credits to the California Tax Credit Allocation Committee; and

   (b) (i) Optionee determines the Project is not financially feasible and intends to decline the funding commitments made by the Agency and County or;

   (ii) The Agency or County terminate their respective funding commitments in accordance with the applicable terms and conditions of such funding commitments.

   Optionee shall provide written notice to the Agency and County of the occurrence of the conditions in (a) and (b) above with appropriate supporting documentation. The Agency and County shall make their respective reimbursements to Optionee within sixty (60) days following receipt of such written notice.

3. Funding of Environmental Assessment Costs. Provided the condition set forth in Section 2 (b) above occurs, Optionor agrees to reimburse Optionee for environmental assessment costs in an amount not to exceed $100,000, and which amount shall be paid equally (i.e., 50/50) by Agency and County. Prior to the payment of such costs by Optionor, Optionee shall provide Optionor any and all records or reports generated as a part of the environmental assessment of the Agency Property and the County Property. The Agency and County shall make their respective reimbursements to Optionee within sixty (60) days following receipt of written notice that the condition set forth in Section 2 (b) has occurred and after County and City's receipt of the environmental assessment reports and documents.

4. Successors and Assigns. The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of the Parties hereto.

5. Authority. The Parties to this Amendment represent and warrant that it has been duly authorized and, once executed, will constitute the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

6. Ratification. Except as specifically set forth in this Amendment, all terms and provisions of the Option Agreement shall be and remain in full force and effect. To the

extent there are conflicts between the Option Agreement and this First Amendment, this First Amendment shall control.

7. Counterparts. This Amendment may be executed in multiple counterparts, each of which, when taken together shall constitute fully executed originals.

IN WITNESS WHEREOF, the Parties have executed this First Amendment on the day and year first above written.

OPTIONEE:

WASHINGTON SANTA ANA HOUSING, L.P.,
a California limited partnership,

By: Related/Washington Santa Ana Development Co., LLC, a California limited liability company, its Administrative General Partner

By: Frank Cardone
Frank Cardone, President

By: Supportive Housing LLC, a California limited liability company, its Managing General Partner

By: A Community of Friends, a California nonprofit public benefit corporation, its sole member/manager

By: _____
Dora Leong Gallo
President and CEO

[*signatures continue on following page*]

APPROVED AS TO FORM:
COUNTY COUNSEL
County of Orange, California

By: _____
Deputy

Date: 11-25-2020

APPROVED AS TO FORM:
SONIA CARAVALHO
AUTHORITY GENERAL COUNSEL

By: _____
Ryan O. Hodge, Assistant City Attorney

Date _____

OPTIONOR

COUNTY OF ORANGE,
a political subdivision of the State of California

_____
Thomas Miller, Chief Real Estate Officer
County of Orange, California

HOUSING AUTHORITY OF THE CITY OF SANTA ANA ACTING AS THE HOUSING SUCCESSOR AGENCY
a public body, corporate and politic

_____
Steven A. Mendoza, Executive Director

Revision to ASR and/or Attachments

RECEIVED
2020 DEC 10 AM 11:05
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

Date: **December 10, 2020**

To: Clerk of the Board of Supervisors

CC: County Executive Office

From: **Frank Kim, County Executive Officer**

Re: ASR Control #: N/A, Meeting Date 12/15/20 , Item No. # S37D

Subject: Amendment to Agreement with Court Appointed Special Advocates of Orange County

---

Explanation:

Updated to correct the correct title of CASA.

☐ Revised Recommended Action(s)

Authorize the County Executive Officer or designee to execute the Fourth Amendment to the Agreement with ~~County~~ Court Appointed Special Advocates (CASA)of Orange County ~~(CASA)~~ to extend the term of the Agreement through December 31, 2021, or until funds are fully exhausted, and to increase the Agreement amount by $100,000 for a new total of $638,740 for reimbursement of personnel costs to provide victim advocacy and assistance services to dependent youth.

☐ Make modifications to the:

☐ Subject ☐ Background Information ☐ Summary ☐ Financial Impact

☐ Revised Attachments (attach revised attachment(s) and redlined copy(s))

County Executive Office

S37D

Memorandum

RECEIVED
2020 DEC -9 AM 11:19
CLERK OF THE BOARD
OF SUPERVISORS
BOARD OF SUPERVISORS

December 8, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.08 11:25:59 -08'00'

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: County Executive Office
Subject: Amendment to Agreement with Court Appointed Special Advocates of Orange County
Districts: All Districts

Reason for supplemental: This Agenda Staff Report needs to be heard at the December 15, 2020, Board hearing because Approval of the Fourth Amendment to the Agreement with the Court Appointed Special Advocates of Orange County will allow for continued support and advocacy for children who are under the jurisdiction of the courts owing to abuse, neglect or abandonment. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: _____

Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item S37D
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	County Executive Office
DEPARTMENT HEAD REVIEW:	Michelle Aguirre (Digitally signed by Michelle Aguirre, DN: cn=Michelle Aguirre, o=County Executive Office, ou=Chief Financial Officer, email=michelle.aguirre@ocgov.com, c=US, Date: 2020.12.07 14:41:22 -08'00') *Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Kim Engelby (714) 834-7487 Lisa Bohan-Johnston (714) 834-3530

BOARD OF SUPERVISORS
CLERK OF THE BOARD
ORANGE COUNTY
2020 DEC -9 AM 11:46

SUBJECT: Amendment to Agreement with Court Appointed Special Advocates of Orange County

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2020.12.08 11:25:37 -08'00'	Approved Agreement as to Form	Discussion
CEO Signature	*Action*	3 Votes Board Majority
	County Counsel Signature	

Budgeted: No **Current Year Cost:** $50,000 **Annual Cost:** FY 2021-22: $50,000

Staffing Impact: No **# of Positions:** **Sole Source:** No

Current Fiscal Year Revenue: $50,000

Funding Source: 100% Cal-OES **County Audit in last 3 years:** No

Prior Board Action: 03/24/2020 #13, 01/28/2020, 01/09/2018 #6, 10/31/2017 #26

RECOMMENDED ACTION(S)

Authorize the County Executive Officer or designee to execute the Fourth Amendment to the Agreement with County Appointed Special Advocates of Orange County (CASA) to extend the term of the Agreement through December 31, 2021, or until funds are fully exhausted, and to increase the Agreement amount by $100,000 for a new total of $638,740 for reimbursement of personnel costs to provide victim advocacy and assistance services to dependent youth.

SUMMARY:

Approval of the Fourth Amendment to the Agreement with the Court Appointed Special Advocates of Orange County will allow for continued support and advocacy for children who are under the jurisdiction of the courts owing to abuse, neglect or abandonment by providing additional funding and extending the term of the Agreement through December 31, 2021.

BACKGROUND INFORMATION:

In March 2016, the County was notified of a new grant opportunity through the Governor's Office of Emergency Services (Cal-OES) for the County Victim Services Program. The grant application mandated a Steering Committee comprised of representatives from specific areas and Cal-OES funded victim service providers including the Social Services Agency, Health Care Agency, Probation Department, Sheriff-Coroner Department, Courts and Cal-OES-funded community-based organizations providing services to victims of crime. Funding received must be used to address the gaps or needs in services as identified by the Steering Committee.

One of the gaps identified pertained to advocacy and assistance with criminal justice and other legal proceedings, which is an area of significant need for dependent youth victims of abuse, neglect and abandonment. Court Appointed Special Advocates (CASA) of Orange County has maintained an existing arrangement with both the Social Services Agency and the Probation Department and serves the needs of abused and neglected children in the juvenile court system. Their advocates are trained and supported to connect with the youth, to identify needs and concerns, to address ongoing crises that erupt in their cases and to advocate for their resolution. The demand for these services is based on referrals received from Social Workers, Attorneys and Judges and continue to challenge CASA's current capacity to properly serve the dependent youth.

These youth range in age from birth to 21 and have been found to be victims of abuse and neglect and are declared dependents of the court pursuant to Welfare and Institutions Code §300. The youth who are referred to CASA are among the County's most vulnerable victims because, in addition to the traumatic circumstances that brought them into care, they typically have no additional support system until a CASA has been assigned to their case. Funding provided through this Agreement has allowed CASA to provide services to over 1,500 youths by providing staff dedicated to assist with the recruitment, screening and training efforts to support volunteers to serve as dedicated mentor-advocates.

Monthly Average of Individual Services per Award

	4/1/16 to 6/30/18	7/1/18 to 12/31/19	1/1/20 to 9/30/20*
Individuals Receiving Services	145	208	42
New Individuals Served	44	15	22
Referrals Made	3	113	13
Personal Advocacy Services	105	208	42
Emotional Support Services	34	95	0

*Award period ends 12/31/20

Services were impacted by the COVID-19 pandemic which delayed services until required safety measures could be implemented and courts re-opened mandating CASA's services for the youths.

The grant that funds these services was initially awarded and accepted by the Board of Supervisors (Board) on October 25, 2016. The original agreement with CASA was subsequently approved by the Board on March 14, 2017, for the amount of $106,380 for the term ending June 30, 2018.

In August 2017, the County was notified by Cal-OES of an extension available for the County Victim Services Program for 18 months with additional funding provided. The Board approved acceptance of this grant extension and funds on October 31, 2017.

On January 9, 2018, the Board approved the First Amendment to add $33,000 for the term ending June 30, 2018, and the amount is $249,360 for the term covering July 1, 2018, to December 31, 2019, for a total Agreement amount of $388,740. This amendment increased staffing levels to expand caseload and supervision of case supervisors thereby allowing more dependent youths to receive advocacy and assistance services to develop one-on-one relationships; establish consistent and regular contact; engage the youths in activities; identify and address ongoing crises that can occur and advocate for their resolution; and respond to the youth's emotional and physical needs by collaborating with various professionals.

In September 2019, the County was notified of funding available for the term of January 1, 2020, to December 31, 2020. The grant application was approved by the Board on October 8, 2019, and awarded by Cal-OES on December 17, 2019, which was then accepted by the Board on January 28, 2020.

A Second Amendment was processed administratively on December 30, 2019, to extend the Agreement to March 31, 2020, and increase funds by the approved 10 percent contingency amount of $10,638.

A Third Amendment was approved by the Board on March 24, 2020, to increase the amount of funding provided by $139,362 for a new total of $538,740 and extend the term of the Agreement through December 31, 2020.

In August 2020, the County was notified of funding available for the term of January 1, 2021, to December 31, 2021. The grant application was approved by the Board on September 15, 2020, and is pending formal award notification by Cal-OES.

In anticipation of this award, a Fourth Amendment is submitted for Board approval to increase funding by $100,000 for a new total of $638,740 and to extend the term to December 31, 2021. This Amendment is being submitted to the Board for approval less than 30 days due to the timing of the application process, anticipated award notification from Cal-OES and the time to negotiate with CASA on the amendments and extension.

CASA is currently meeting program objectives in accordance with the Agreement. The Agreement does not currently include subcontractors or pass through to other providers. See Attachment D for Contract Summary Form.

FINANCIAL IMPACT:

Appropriations were not included in the FY 2020-21 budget process. Upon approval of the Amendment, a budget adjustment will be included in the Mid-Year Budget Report for Trial Courts, Budget Control 081, to incorporate the changes required for the current budget and will be incorporated into the budget process for the following fiscal year.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Fourth Amendment to Agreement for Reimbursement of Personnel Costs with CASA
Attachment B – Fourth Amendment to Agreement for Reimbursement of Personnel Costs with CASA (Redline)
Attachment C – Welfare and Institutions Code Section 300
Attachment D – Contract Summary Form

FOURTH AMENDMENT TO AGREEMENT FOR REIMBURSEMENT OF PERSONNEL COSTS FOR THE COUNTY VICTIM SERVICES PROGRAM GRANT BETWEEN THE COUNTY OF ORANGE AND COURT APPOINTED SPECIAL ADVOCATES ORANGE COUNTY

This Amendment to the Agreement for Reimbursement for Personnel Costs for the County Victim Services Program Grant, hereinafter referred to as "THIRD AMENDMENT," is made and entered into upon execution of all necessary signatures between the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "GRANTOR," and Court Appointed Special Advocates Orange County, a nonprofit corporation, hereinafter referred as "GRANTEE," referred to collectively as "PARTIES" or individually as "PARTY."

RECITALS

WHEREAS, the PARTIES executed an Agreement for reimbursement of personnel costs for the County Victim Services Program Grant, effective March 14, 2017 through June 30, 2018, in the amount of $106,380 (hereinafter referred to as "Agreement"); and

WHEREAS, the PARTIES executed FIRST AMENDMENT to the Agreement to extend the term to December 31, 2019 and to increase funding from the State of California Governor's Office of Emergency Services (hereinafter referred to as "Cal OES") for the County Victim Services Program Grant by $282,360, for a new maximum obligation of $388,740; and

WHEREAS, the PARTIES executed SECOND AMENDMENT to the Agreement to extend the term to March 31, 2020 and to exercise the approved cost contingency to increase the Agreement amount by $10,638 (10% of the original amount), for a new maximum obligation of $399,378; and

WHEREAS, GRANTOR executed THIRD AMENDMENT to the Agreement to extend the term to December 31, 2020 and to increase the Agreement amount by $139,362, for a new maximum obligation of $538,740, and

WHEREAS, GRANTOR desires to enter into this FOURTH AMENDMENT to the Agreement to extend the term to December 31, 2021 and to increase the Agreement amount by $100,000, for a new maximum obligation of $638,740, and

WHEREAS, GRANTOR desires to replace Attachment A-3 – Scope of Services with Attachment A-4 – Scope of Services; and

WHEREAS, GRANTEE is performing satisfactory as required by the Agreement in order to satisfy this THIRD AMENDMENT; and

NOW, THEREFORE, in consideration of the mutual obligations set for herein, both PARTIES mutually agree to amend the Agreement as follows:

1. The Agreement is extended for twelve months, effective January 1, 2021 through December 31, 2021.
2. The Agreement's contract amount is increased by $100,000, for a new maximum obligation of $638,740.
3. Attachment A-3 – Scope of Services is deleted in its entirety and replaced with Attachment A-4 – Scope of Services.

Except as otherwise expressly set forth herein, all terms and conditions contained in the Agreement, including any amendments/modifications, are hereby incorporated herein by this reference as if fully set forth herein and shall remain in full force and effect.

IN WITNESS WHEREOF, the PARTIES have caused this THIRD AMENDMENT to be executed in the County of Orange, State of California.

BY: _____ DATED: 12/7/2020
Court Appointed Special Advocates
Orange County

BY: _____ DATED: _____
County Executive Office
County of Orange, California

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY: Brittany Mclean
Deputy

DATED: 12/7/2020

ATTACHMENT A-4

Scope of Services

Court Appointed Special Advocates Orange County (CASA)

Purpose

On March 1, 2016, the California Governor's Office of Emergency Services (hereinafter "Cal OES") issued a Request for Application for a new County Victim Services Program grant to provide one-time, federal Victims of Crime Act (VOCA) funding to help fill victim services gaps and or needs over the period of July 1, 2016 to June 30, 2018. The grant required a Steering Committee be established with mandatory representation from several County departments, specific Cal OES funded projects, courts, and local law enforcement. The Committee collaboratively identified several existing gaps and needs with services provided to the county's crime victims and approved several projects to meet their needs to be facilitated through an expansion of county and contracted services. The County of Orange (hereinafter "GRANTOR") applied for these grant funds and identified Court Appointed Special Advocates Orange County (hereinafter "GRANTEE") among the entities to receive funding. The County received a total grant award of $2,262,560.

On August 11, 2017, the County Victim Services Program grant was amended by the Cal OES to include an additional award of $1,643,487 with a $410,872 match and an extension to utilize the additional funds by December 31, 2019.

On December 17, 2019, the County Victim Services Program grant was approved for calendar year 2020 by Cal OES and the County was awarded $827,772 with a match of $206,943 to be utilized by December 31, 2020.

The County Victim Services Program grant is pending formal approval for calendar year 2021 by Cal OES. However, the grant is noncompetitive, and the amount anticipated to be awarded to the County is established at $842,126 with a match of $210,532 to be utilized by December 31, 2021.

GRANTEE Compliance

Funds awarded are considered to be Federal funds and reportable under the Office of Management and Budget's Uniform Guidance. GRANTEE's compliance with the Cal OES Subrecipient Handbook is required. The awarding agency and other reportable information is as follows:

Awarding County Agency Name and Contact Information:	County of Orange County Executive Office Kim Engelby, (714) 834-7487
County DUNS#:	009657602
Awarding Federal Agency:	Governor's Office of Emergency Services
Award Date:	December X, 2020
Subrecipient Name and DUNS#:	Court Appointed Special Advocates Orange County (CASA) DUNS: 147630136
Amount of Award to CASA:	1/1/2021 – 12/31/2021: $100,000

Amount of Match Funds from CASA:	1/1/2021 – 12/31/2021: $210,532

A. Target Population

GRANTEE shall be appointed by the court and provide advocacy services to youths under the jurisdiction of the juvenile court pursuant to Welfare and Institutions Code (WIC) Section 300, 601, or 602 who are between the ages birth to twenty one (21) years of age who have been found to be victims of child abuse and/or neglect. The population to be served as defined in this Paragraph shall hereinafter be referred to as "YOUTH."

B. Services to be Provided

GRANTEE shall expand assistance with criminal justice or other legal procedures by providing staff to assist with recruitment, screening, training and supporting volunteers to serve as dedicated mentor-advocates for YOUTH.

C. Core Components of Grantee's Program

1. GRANTEE shall comply with WIC Section 103 and ensure each employee and volunteer of GRANTEE receives initial comprehensive training and ongoing monthly training on the rules and regulations adopted by the Judicial Council consisting of the dynamics of child abuse, court structure, social services systems, child development, cultural competency and sensitivity, interviewing techniques, report writing, and the roles and responsibilities of an employee or volunteer of GRANTEE.

2. Each volunteer of GRANTEE under the supervision of an assigned case manager shall:

   a) Develop one-on-one relationships with YOUTH by establishing consistent and regular contact and engaging YOUTH in activities including outings or other interest of the YOUTH;

   b) Identify YOUTH needs and concerns, addressing ongoing crises that can occur with dependent YOUTH and advocating for their resolution; and

   c) Respond to the emotional and physical needs of the YOUTH by collaborating with various professionals who are working on a YOUTH's case.

D. Anticipated Outcomes

1. GRANTOR expects the GRANTEE to continue to provide and track advocacy services provided to YOUTHS, and report on the required quarterly reports outlined in Section G.2 below.

2. GRANTOR expects the GRANTEE to continue to advocate on behalf of the YOUTHs through its Family Connections program to find stable housing with family members.

3. GRANTEE shall provide an In-Kind Match totaling $210,532.

E. Grantee's Staffing

1. GRANTEE shall provide services under this AGREEMENT through the addition of
   a) Up to three Assistant Program Managers to assist with recruitment, screening and training efforts and be compensated at a maximum salary of $60,000 annually with a benefit rate not to exceed 17%; and

   b) Up to one Family Connections Coordinator position to collaborate with the YOUTH's advocate and connect with placement with family. The cost of this position will be compensated at a maximum rate of $51,500 annually with a benefit rate not to exceed 17%.

2. GRANTEE shall utilize trained volunteers to provide direct services to YOUTH. Hours shall be tracked and used to calculate the In-Kind Match.

3. Funds received may not supplant other funding sources.

F. Reimbursement

1. The following are anticipated uses of the amount awarded. Amounts awarded for the County Victim Services Program for FY 18-19 and FY 19-20 must be expended by December 31, 2019. Amounts awarded for Calendar Year 2020 must be expended by December 31, 2020.

   Amounts awarded for Calendar Year 2021 must be expended by December 31, 2021, with $50,000 required to be spent by June 15, 2020. Any adjustments within the stated categories or over fiscal periods must be approved by GRANTOR in writing.

Budget Detail

Period of July 1, 2017 to December 31, 2019

Description	FY 2017-18	FY 2018-19	FY 2019-20 (To 12/31/19)	Total
Salaries	$106,178	$104,813	$75,305	$286,296
Benefits	14,129	14,724	11,203	40,056
Family Engagement Expenses	4,723	10,986	7,671	23,380
Supplies	0	2,544	4,417	6,961
10% Indirect	12,122	10,676	9,249	32,047
Total	$137,152	$143,743	$107,845	$388,740

Budget Detail
Calendar Years 2020 and 2021

Description	1/1/20-12/31/20	1/1/21-12/31/21	Total
Salaries	$129,240	$81,540	$210,780
Benefits	16,918	6,238	23,156
Family Engagement Expenses	1,406	3,444	4,850
Supplies	0	0	0
10% Indirect	2,436	8,778	11,214
Total	$150,000	$100,000	$250,000

2. Funds will be disbursed on a reimbursement basis as eligible costs are incurred. Invoices must be on letterhead, identify amount payable by the County of Orange, and itemize the eligible costs to be reimbursed.

3. Invoices submitted should also include the following reportable information:
   a) Total amount of In-Kind Match provided for the month.
   b) Number of caseloads managed by each supervisor.

4. Invoices are to be submitted no later than the 20th of the month following the month the costs were incurred and should be sent to:
   County of Orange, CEO Budget Office
   333 W Santa Ana Blvd., Third Floor
   Santa Ana, CA 92701
   ATTN: Kim Engelby

G. Reports

In compliance with the Cal OES County Victim Services (XC) program requirements, GRANTEE shall provide GRANTOR the following reports as outlined below:

1. Progress Reports may be required and reported to Cal OES on a semi-annual basis. The format will be established by Cal OES and communicated in writing by GRANTOR. The following outlines the minimum information that may be required:

   (a) Total funds expended to date.
   (b) Items encumbered but not paid for.
   (c) Listing of GRANTEE's authorized positions including position title, duties, and percentage of Full-Time Equivalency (FTE) noting any changes.
   (d) Total number of positions (Total FTE's).
   (e) Number of volunteers (Total FTE's).
   (f) Number of victims receiving direct services by types of victimizations. Include all categories, if more than one type of crime.
   (g) Number of victims with special classifications such as deaf/hard of hearing, homeless, immigrant/refugee, LGBTQ, disabilities, limited English proficiency, etc.
   (h) Narrative describing activities performed during the reporting period and any issues encountered in performing services.

2. Quarterly reports are required and are to be submitted no later than the 10th of the month following the end of the quarter. The information received is reported to the Office of Victims of Crime and must include the following information:

   Population:

   a) Total number of YOUTHS who received services during the reporting period.
   b) Number of new YOUTHS who received services during the reporting period.
   c) Demographic information of new YOUTHS, including race/ethnicity, gender, and age.
   d) Types of victimizations for all YOUTHs who received services during the reporting period. Include all categories, if more than one type of crime.
   e) Identify any special classification for the individuals served such as deaf/hard of hearing, homeless, immigrant/refugee, LGBTQ, disabilities, limited English proficiency, etc.

   Direct Services:

   a) Number of victims assisted with a victim compensation application during the reporting period.
   b) Types of services provided during reporting period.
   c) Total number of individuals who received services and number of times each service was provided during the reporting period.

   Subgrantee Annual Reported Questions (June Report):

   a) Number of requests for services that were unmet because of capacity issues.
   b) As applicable, number of surveys distributed for feedback on services provided in addition to the number of surveys completed.
   c) Describe any services needed by victims but not provided.

~~THIRD~~ FOURTH AMENDMENT TO AGREEMENT FOR REIMBURSEMENT OF PERSONNEL COSTS FOR THE COUNTY VICTIM SERVICES PROGRAM GRANT BETWEEN THE COUNTY OF ORANGE AND COURT APPOINTED SPECIAL ADVOCATES ORANGE COUNTY

This Amendment to the Agreement for Reimbursement for Personnel Costs for the County Victim Services Program Grant, hereinafter referred to as "THIRD AMENDMENT," is made and entered into upon execution of all necessary signatures between the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "GRANTOR," and Court Appointed Special Advocates Orange County, a nonprofit corporation, hereinafter referred as "GRANTEE," referred to collectively as "PARTIES" or individually as "PARTY."

RECITALS

WHEREAS, the PARTIES executed an Agreement for reimbursement of personnel costs for the County Victim Services Program Grant, effective March 14, 2017 through June 30, 2018, in the amount of $106,380 (hereinafter referred to as "Agreement"); and

WHEREAS, the PARTIES executed FIRST AMENDMENT to the Agreement to extend the term to December 31, 2019 and to increase funding from the State of California Governor's Office of Emergency Services (hereinafter referred to as "Cal OES") for the County Victim Services Program Grant by $282,360, for a new maximum obligation of $388,740; and

WHEREAS, the PARTIES executed SECOND AMENDMENT to the Agreement to extend the term to March 31, 2020 and to exercise the approved cost contingency to increase the Agreement amount by $10,638 (10% of the original amount), for a new maximum obligation of $399,378; and

WHEREAS, GRANTOR ~~desires to enter into this~~executed THIRD AMENDMENT to the Agreement to extend the term to December 31, 2020 and to increase the Agreement amount by $139,362, for a new maximum obligation of $538,740, ~~in order to continue to serve additional participants and increase service delivery outcomes;~~ and

WHEREAS, GRANTOR desires to enter into this FOURTH AMENDMENT to the Agreement to extend the term to December 31, 2021 and to increase the Agreement amount by $100,000, for a new maximum obligation of $638,740, and

WHEREAS, GRANTOR desires to replace Attachment A-~~2~~ 3 – Scope of Services with Attachment A-~~3~~ 4 – Scope of Services; and

WHEREAS, GRANTEE is performing satisfactory as required by the Agreement in order to satisfy this THIRD AMENDMENT; and

NOW, THEREFORE, in consideration of the mutual obligations set for herein, both PARTIES mutually agree to amend the Agreement as follows:

1. The Agreement is extended for ~~nine~~ twelve months, effective ~~April~~January 1, 202~~0~~1 through December 31, 202~~0~~1.
2. The Agreement's contract amount is increased by $~~139,362~~100,000, for a new maximum obligation of $~~538~~638,740.
3. Attachment A-~~2~~ 3 – Scope of Services is deleted in its entirety and replaced with Attachment A-~~3~~4 – Scope of Services.

Except as otherwise expressly set forth herein, all terms and conditions contained in the Agreement, including any amendments/modifications, are hereby incorporated herein by this reference as if fully set forth herein and shall remain in full force and effect.

IN WITNESS WHEREOF, the PARTIES have caused this THIRD AMENDMENT to be executed in the County of Orange, State of California.

BY:_____ DATED:_____
Court Appointed Special Advocates
Orange County

BY:_____ DATED:_____
~~Chairwoman of the Board of Supervisors~~ County Executive Office
County of Orange, California

~~SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C SEC. 25103, RESO 79-1535.~~
~~ATTEST:~~
_____

_____
~~Robin Stieler~~
~~Clerk of the Board of Supervisors~~
~~County of Orange, California~~

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY:_____
Deputy

DATED:_____

ATTACHMENT A-~~3~~4

Scope of Services

Court Appointed Special Advocates Orange County (CASA)

Purpose

On March 1, 2016, the California Governor's Office of Emergency Services (hereinafter "Cal OES") issued a Request for Application for a new County Victim Services Program grant to provide one-time, federal Victims of Crime Act (VOCA) funding to help fill victim services gaps and or needs over the period of July 1, 2016 to June 30, 2018. The grant required a Steering Committee be established with mandatory representation from several County departments, specific Cal OES funded projects, courts, and local law enforcement. The Committee collaboratively identified several existing gaps and needs with services provided to the county's crime victims and approved several projects to meet their needs to be facilitated through an expansion of county and contracted services. The County of Orange (hereinafter "GRANTOR") applied for these grant funds and identified Court Appointed Special Advocates Orange County (hereinafter "GRANTEE") among the entities to receive funding. The County received a total grant award of $2,262,560.

On August 11, 2017, the County Victim Services Program grant was amended by the Cal OES to include an additional award of $1,643,487 with a $410,872 match and an extension to utilize the additional funds by December 31, 2019.

On December 17, 2019, the County Victim Services Program grant was approved for calendar year 2020 by Cal OES and the County was awarded $827,772 with a match of $206,943 to be utilized by December 31, 2020.

The County Victim Services Program grant is pending formal approval for calendar year 2021 by Cal OES. However, the grant is noncompetitive, and the amount anticipated to be awarded to the County is established at $842,126 with a match of $210,532 to be utilized by December 31, 2021.

GRANTEE Compliance

Funds awarded are considered to be Federal funds and reportable under the Office of Management and Budget's Uniform Guidance. GRANTEE's compliance with the Cal OES Subrecipient Handbook is required. The awarding agency and other reportable information is as follows:

Awarding County Agency Name and Contact Information:	County of Orange County Executive Office Kim Engelby, (714) 834-7487
County DUNS#:	009657602
Awarding Federal Agency:	Governor's Office of Emergency Services
Award Date:	~~December 17, 2019~~December X, 2020
Subrecipient Name and DUNS#:	Court Appointed Special Advocates Orange County (CASA) DUNS: 147630136

Amount of Award to CASA:	~~7/1/2016 – 12/31/2019: $388,740~~ 1/1/~~2020~~ 2021 – 12/31/~~2020~~2021: $~~150,000~~100,000
Amount of Match Funds from CASA:	~~7/1/2016 – 12/31/2019: $709,055~~ 1/1/~~2020~~ 2021 – 12/31/~~2020~~2021: $~~206,943~~210,532

A. Target Population

GRANTEE shall be appointed by the court and provide advocacy services to youths under the jurisdiction of the juvenile court pursuant to Welfare and Institutions Code (WIC) Section 300, 601, or 602 who are between the ages birth to twenty one (21) years of age who have been found to be victims of child abuse and/or neglect. The population to be served as defined in this Paragraph shall hereinafter be referred to as "YOUTH."

B. Services to be Provided

GRANTEE shall expand assistance with criminal justice or other legal procedures by providing staff to assist with recruitment, screening, training and supporting volunteers to serve as dedicated mentor-advocates for YOUTH.

C. Core Components of Grantee's Program

1. GRANTEE shall comply with WIC Section 103 and ensure each employee and volunteer of GRANTEE receives initial comprehensive training and ongoing monthly training on the rules and regulations adopted by the Judicial Council consisting of the dynamics of child abuse, court structure, social services systems, child development, cultural competency and sensitivity, interviewing techniques, report writing, and the roles and responsibilities of an employee or volunteer of GRANTEE.

2. Each volunteer of GRANTEE under the supervision of an assigned case manager shall:

   a) Develop one-on-one relationships with YOUTH by establishing consistent and regular contact and engaging YOUTH in activities including outings or other interest of the YOUTH;

   b) Identify YOUTH needs and concerns, addressing ongoing crises that can occur with dependent YOUTH and advocating for their resolution; and

   c) Respond to the emotional and physical needs of the YOUTH by collaborating with various professionals who are working on a YOUTH's case.

D. Anticipated Outcomes

1. GRANTOR expects the GRANTEE to continue to provide and track advocacy services provided to ~~increase the number of new YOUTHS served by a minimum of 180~~ YOUTHS, ~~as~~ and report~~ed~~ on the required quarterly reports outlined in Section G.2 below.

2. GRANTOR expects the GRANTEE to continue to advocate on behalf of the~~number of~~ YOUTHs ~~assisted~~ through its Family Connections program to find stable housing with family members ~~increase by 20% when compared to the prior calendar year~~.

3. GRANTEE shall provide an In-Kind Match totaling $~~206,943~~210,532.

E. Grantee's Staffing

1. GRANTEE shall provide services under this AGREEMENT through the addition of
   a) Up to three Assistant Program Managers to assist with recruitment, screening and training efforts and be compensated at a maximum salary of $60,000 annually with a benefit rate not to exceed 17%; and

   b) Up to one Family Connections Coordinator position to collaborate with the YOUTH's advocate and connect with placement with family. The cost of this position will be compensated at a maximum rate of $~~48,000~~51,500 annually with a benefit rate not to exceed 17%.

2. GRANTEE shall utilize trained volunteers to provide direct services to YOUTH. Hours shall be tracked and used to calculate the In-Kind Match.

3. Funds received may not supplant other funding sources.

F. Reimbursement

1. The following are anticipated uses of the amount awarded. Amounts awarded for the County Victim Services Program for FY 18-19 and FY 19-20 must be expended by December 31, 2019. Amounts awarded for Calendar Year 2020 must be expended by December 31, 2020.

   Amounts awarded for Calendar Year 2021 must be expended by December 31, 2021, with $50,000 required to be spent by June 15, 2020. Any adjustments within the stated categories or over fiscal periods must be approved by GRANTOR in writing.

Budget Detail
Period of July 1, 2017 to December 31, 2019

Description	FY 2017-18	FY 2018-19	FY 2019-20 (To 12/31/19)	Total
Salaries	$106,178	$104,813	$75,305	$286,296
Benefits	14,129	14,724	11,203	40,056
Family Engagement Expenses	4,723	10,986	7,671	23,380
Supplies	0	2,544	4,417	6,961
10% Indirect	12,122	10,676	9,249	32,047
Total	$137,152	$143,743	$107,845	$388,740

~~Budget Detail~~
~~Period of January 1, 2020 to December 31, 2020~~Budget Detail
Calendar Years 2020 and 2021

Description	1/1/20-12/31/20	1/1/21-12/31/21	Total
Salaries	$129,240	$81,540	$~~129,240~~210,780
Benefits	16,918	6,238	~~16,918~~23,156
Family Engagement Expenses	1,406	3,444	~~1,406~~4,850
Supplies	0	0	0
10% Indirect	2,436	8,778	~~2,436~~11,214
Total	$150,000	$100,000	$~~150,000~~250,000

2. Funds will be disbursed on a reimbursement basis as eligible costs are incurred. Invoices must be on letterhead, identify amount payable by the County of Orange, and itemize the eligible costs to be reimbursed.

3. Invoices submitted should also include the following reportable information:
   a) Total amount of In-Kind Match provided for the month.
   b) Number of caseloads managed by each supervisor.

4. Invoices are to be submitted no later than the 20th of the month following the month the costs were incurred and should be sent to:
   County of Orange, CEO Budget Office
   333 W Santa Ana Blvd., Third Floor
   Santa Ana, CA 92701
   ATTN: Kim Engelby

G. Reports

In compliance with the Cal OES County Victim Services (XC) program requirements, GRANTEE shall provide GRANTOR the following reports as outlined below:

1. Progress Reports may be required and reported to Cal OES on a semi-annual basis. The format will be established by Cal OES and communicated in writing by GRANTOR. The following outlines the minimum information that may be required:

   (a) Total funds expended to date.
   (b) Items encumbered but not paid for.
   (c) Listing of GRANTEE's authorized positions including position title, duties, and percentage of Full-Time Equivalency (FTE) noting any changes.
   (d) Total number of positions (Total FTE's).
   (e) Number of volunteers (Total FTE's).

(f) Number of victims receiving direct services by types of victimizations. Include all categories, if more than one type of crime.
(g) Number of victims with special classifications such as deaf/hard of hearing, homeless, immigrant/refugee, LGBTQ, disabilities, limited English proficiency, etc.
(h) Narrative describing activities performed during the reporting period and any issues encountered in performing services.

2. Quarterly reports are required and are to be submitted no later than the 10th of the month following the end of the quarter. The information received is reported to the Office of Victims of Crime and must include the following information:

Population:

a) Total number of YOUTHS who received services during the reporting period.
b) Number of new YOUTHS who received services during the reporting period.
c) Demographic information of new YOUTHS, including race/ethnicity, gender, and age.
d) Types of victimizations for all YOUTHs who received services during the reporting period. Include all categories, if more than one type of crime.
e) Identify any special classification for the individuals served such as deaf/hard of hearing, homeless, immigrant/refugee, LGBTQ, disabilities, limited English proficiency, etc.

Direct Services:

a) Number of victims assisted with a victim compensation application during the reporting period.
b) Types of services provided during reporting period.
c) Total number of individuals who received services and number of times each service was provided during the reporting period.

Subgrantee Annual Reported Questions (June Report):

a) Number of requests for services that were unmet because of capacity issues.
b) As applicable, number of surveys distributed for feedback on services provided in addition to the number of surveys completed.
c) Describe any services needed by victims but not provided.

Attachment C

WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 2. CHILDREN [100 - 1500] *(Division 2 enacted by Stats. 1937, Ch. 369.)*
PART 1. DELINQUENTS AND WARDS OF THE JUVENILE COURT [100 - 1403] *(Part 1 enacted by Stats. 1937, Ch. 369.)*

CHAPTER 2. Juvenile Court Law [200 - 987] *(Chapter 2 repealed and added by Stats. 1961, Ch. 1616.)*

ARTICLE 6. Dependent Children—Jurisdiction [300 - 304.7] *(Article 6 added by Stats. 1976, Ch. 1068.)*

300. A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks if there is no evidence of serious physical injury.

(b) (1) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. A child shall not be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(2) The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. A child shall not be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

(e) The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of this subdivision, “severe physical abuse” means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child shall not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

(f) The child’s parent or guardian caused the death of another child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision (g) of that section; the child’s parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child’s sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse

Attachment C

or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

It is the intent of the Legislature that this section not disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, this section is not intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

As used in this section, "guardian" means the legal guardian of the child.

(Amended by Stats. 2015, Ch. 303, Sec. 566. (AB 731) Effective January 1, 2016.)

Contract Summary Form

Court Appointed Special Advocates of Orange County

SUMMARY OF SIGNIFICANT CHANGES

The Fourth Amendment includes an increase of costs totaling $100,000 and extends the agreement to December 31, 2021, to align with the funding source.

Subcontractors

This contract does not include subcontractors or pass through to other providers.

Contract Operating Expenses

Budget Detail
Period of January 1, 2021 to December 31, 2021

Description	Amend #4 1/1/21-12/31/21
Salaries	$81,540
Benefits	6,238
Family Engagement Expenses	3,444
Supplies	0
10% Indirect*	8,778
Total	$100,000

County Executive Office

S37E

Memorandum

RECEIVED
2020 DEC -9 AM 11:48
CLERK OF THE BOARD
BOARD OF SUPERVISORS

December 8, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: Sheriff-Coroner
Subject: Approve Amendment A1 to Peace Officer Standards and Training Agreement for Coroner
Districts: All Districts

Reason for supplemental: The County Executive Office is requesting this Supplemental item be heard on the December 15, 2020, Board agenda in order to meet the state commission's requirement to execute the amendment to the Peace Officer Standards and Training agreement by th December 31, 2020. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: _____
Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item S37E
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	Sheriff-Coroner
DEPARTMENT HEAD REVIEW:	*Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Jeff Hallock (714) 647-1839 Tracy Morris (714) 647-1817

SUBJECT: Ratify Amendment A1 to Peace Officer Standards and Training Agreement for Coroner

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
CEO Signature	Approved Agreement as to the Form *Action* *County Counsel Signature*	Discussion 3 Votes Board Majority

Budgeted: Yes | **Current Year Cost:** See Financial Impact Section | **Annual Cost:** N/A

Staffing Impact: N/A | **# of Positions:** N/A | **Sole Source:** N/A

Current Fiscal Year Revenue: See Financial Impact Section

Funding Source: See Financial Impact Section | **County Audit in last 3 years** No

Prior Board Action: 5/19/2020 #5, 5/21/2019 #5, 7/17/2018 #1, 4/10/2018 #3

RECOMMENDED ACTION(S):

Ratify and authorize the Sheriff-Coroner, or designee, to execute Amendment A1 to the Peace Officer Standards and Training Agreement with the State of California for the Sheriff-Coroner Department to provide coroner training courses for the term of July 1, 2020, through June 30, 2021, with a maximum reimbursement to the County of $165,076.

SUMMARY:

Ratification of Amendment Number A1 to the Commission on Peace Officer Standards and Training Agreement will allow the Sheriff-Coroner Department to provide coroner training courses to provide up-to-date medicolegal death investigation information to staff.

BACKGROUND INFORMATION:

The Sheriff-Coroner Department (Sheriff) operates the California Coroner Training Center, constructed in 2004 with $10 million in state revenue that was allocated to the County of Orange for this facility. This

state-of-the-art coroner training center was constructed so that specialized coroner training courses would be made available to death investigation professionals throughout California. Sheriff provides coroner training courses in the facility to coroner staff throughout the State for the Commission on Peace Officers Standards and Training (POST). The costs of providing this training are offset by reimbursement from POST, pursuant to an annual agreement.

The following table notes recent POST Coroner agreement history.

Board of Supervisors Approved	Agreement	Contract Term	Contract Amount	Comments
6/27/17	Agreement	7/1/17 - 6/30/18	$168,371	New agreement
4/10/18	Amended Agreement	7/1/17 - 6/30/18	$77,280	Amended agreement to reduce the annual reimbursement from $168,371 to $77,280
7/17/18	Agreement	7/1/18 - 6/30/19	$77,280	New agreement
5/21/19	Agreement	7/1/19 - 6/30/20	$168,371	New agreement
5/19/20	Agreement	7/1/20 - 6/30/21	$165,115	New Agreement

The previously proposed FY 2020-21 agreement for $165,115, provided for the Sheriff-Coroner Department to present the following courses: 80-hour Coroner Course, 32-hour Coroner Symposium, 24-hour Effective Interviewing in a Death Investigation, eight-hour Coroner Safety Update, 24-hour Wound Identification for First Responders, 24-hour PC 832 (firearms) and 40-hour PC 832 (laws of arrest).

Sheriff now requests that the Board ratify Amendment Number A1 to the POST Agreement, which reduces the previously agreed to amount of $165,115, to $165,076. Amendment Number A1 removes the 32 hour Coroner Symposium due to the restriction of large gatherings as a result of COVID-19, an increase in the costs of two classes for effective interviewing in a Death Investigation, a reduced Course Coordinator budget, an addition to purchase ongoing maintenance of the forensic death training mannequins and the addition of a one-time technology update for the training facility.

The maximum reimbursement to the County for the provision of coroner training courses provided within this agreement term is $165,076, which has been reduced from the previous amount of $165,115.

FINANCIAL IMPACT:

The State of California reimburses the County for the costs of providing training pursuant to this agreement. Appropriations and revenue related to this agreement will be included in the FY 2020-21 Budget for Budget Control 060, Sheriff-Coroner. The agreement contains language that the agreement will be of no force and effect in the event that funding is reduced and/or not available.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Amendment A1 to Agreement Number 20112123

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

SCO ID: 8120

STANDARD AGREEMENT - AMENDMENT

STD 213A (Rev. 10/2019)

☐ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED ____ PAGES

AGREEMENT NUMBER	AMENDMENT NUMBER	Purchasing Authority Number
20112123	A1	

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY NAME
Commission on Peace Officer Standards and Training (POST)

CONTRACTOR NAME
Orange County Sheriff-Coroner Department

2. The term of this Agreement is:

START DATE
July 1, 2020

THROUGH END DATE
June 30, 2021

3. The maximum amount of this Agreement after this Amendment is:
$165,075.52 (One hundred sixty-five thousand, seventy five dollars and fifty two cents)

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

Purpose of the Amendment is to reallocate costs to redirect allocations from the scope of work which will not be realized to other specific items to support the delivery of statewide coroner training. It will decrease the amount of the contract by $38.98.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)
Orange County Sheriff-Coroner Department

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
1071 West Santa Ana Boulevard	Santa Ana	CA	92703

PRINTED NAME OF PERSON SIGNING	TITLE
Tracy Morris	Captain

CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME
Commission on Peace Officer Standards and Training (POST)

CONTRACTING AGENCY ADDRESS	CITY	STATE	ZIP
860 Stillwater Road, Suite 100	West Sacramento	CA	95605

PRINTED NAME OF PERSON SIGNING	TITLE
Maria A. Sandoval	Assistant Executive Director

CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By _____ Deputy

Date: 12/7/20

SCOPE OF WORK

1. Orange County Sheriff-Coroner Department (Contractor) agrees to provide the Commission on Peace Officer Standards and Training (POST), with services necessary for the coordination, management, and delivery of Coroner courses to California law enforcement personnel as described herein.

2. The project coordinators during the term of this Agreement will be:

POST	**Orange County Sheriff-Coroner Dept.**
Name: Andrew Mendonsa	Name: Captain Tracy Morris
Phone: (916) 227-2510	Phone: (714) 412-9892
Email: andrew.mendonsa@post.ca.gov	Email: TracyLMorris@ocsd.org

Direct all Agreement inquiries to:

POST Contracts Unit	**Orange County Sheriff-Coroner Dept.**
Attention: Contracts Analyst	Name: Captain Tracy Morris
Address: 860 Stillwater Road, Ste. 100 West Sacramento, CA 95605	Address: 1071 W. Santa Ana Blvd. Santa Ana, CA 92703
Phone: (916) 227-4537	Phone: (714) 412-9892
Email: contracts@post.ca.gov	Email: TracyLMorris@ocsd.org

3. Statement of Work

A. The Contractor shall fully perform all responsibilities and duties as required by this Agreement and in accordance with directives of the POST Program Manager.

B. The Contractor shall present the following Coroner Courses:
   a. Two (2) presentations of 80-hour Coroner Course at a per course cost of $16,955.00
   b. Two (2) presentations of PC 832 at a per course cost of $3,907.50
   ~~c. One (1) presentation of 32-hour Coroners Symposium, Advanced, at a per course cost of $39,008.00~~
   d. Two (2) Effective Interviewing in a Death Investigation at a per course cost of ~~$4,965.00~~ **$6,394.51**
   e. Two (2) Officer Safety Update at a per course cost of $3,577.50
   f. One (1) Wound Identification for 1st Responders at a per course cost of $7,556.00

C. The Contractor will provide internet connectivity in support of the training at a cost of $6,500.00. **The contractor will provide for the purchase and ongoing maintenance of two forensic death investigation training mannequins at $20,000.00 and necessary facility/training room technology upgrades at $60,000.00.**

D. The Contractor will provide a Coroner Course Coordinator (as specified in Section 4) at a cost of ~~$53,240.00~~ **$9,350.00**.

E. It is mutually agreed that coroners shall be given priority enrollment to the above listed courses.

F. Each course presentation shall be certified by POST and presented in accordance with content provided by the Contractor. All course presentations must be in compliance with California Code of Regulations (CCR) 1052, Requirements for Course Certification.

G. All students must be law enforcement personnel, employed full-time with an agency in the POST reimbursable program, and must be assigned to follow-up coroner or investigator duties.

H. The POST Program Manager will conduct at least one “spot audit” of the Contractor’s record keeping processes annually to ensure that the Contractor is dispersing funds according to this Agreement.

4. Course Coordinator

A. The Course Coordinator works in conjunction with the POST Program Manager and is responsible for all aspects of the Statewide Coroner Training Program logistics, to include the scheduling and coordination of instructors and students. To work with high ranking law enforcement officials effectively and with credibility, the Course Coordinator must have experience working with Coroner/Medical Examiner offices. The Course Coordinator’s services are of such a highly specialized nature that the necessary expert knowledge, experience, and ability are not readily available through the civil service system.

B. The Course Coordinator must:

a. Have a minimum of 10 years of experience working as either a deputy coroner or medical examiner, with the primary responsibility for medicolegal death investigations.
b. Have obtained a POST Coroner Certificate, or equivalent as determined by the POST Program Manager.
c. Have a thorough knowledge of POST guidelines and administrative procedures, including course certification regulations.
d. Have significant experience in collaborating professionally with sheriffs, sheriff-coroners, deputy coroners, and medical examiners.
e. Be able to demonstrate a working knowledge of the Basic Coroner Course curriculum, and to substitute instruct as may be necessary.
f. Have the ability to provide Basic Coroner Course instructors with strategies, feedback, and guidance for immediate implementation into the classroom setting.
g. Possess the technology acumen to meet the administrative functions of the job.
h. Be able to travel as requested by the POST Program Manager in accordance with the Coroner Training schedule.

EXHIBIT A, ATTACHMENT I

Course: CORONERS COURSE – 31200

Presenter: ORANGE COUNTY SHERIFF'S DEPARTMENT (2060)

Total Hours Per Course Presentation: **80**

Total Number of Days of Class: **10**

Day 1

Start	End	Subject
0800	0900	Course Expectations & Pre-Test
0900	1500	Role of Death Investigator-National Guidelines-Death Notification
1500	1700	Identifying the Unidentified-Cal ID

Day 2

Start	End	Subject
0800	1000	Sudden and Unexpected Death
1000	1200	Coroner Related Law
1300	1500	Disaster Management
1500	1700	Infant Death Investigation

Day 3

Start	End	Subject
0800	1000	Sudden and Unexpected Death
1000	1200	Coroner Related Law
1300	1500	Disaster Management
1500	1700	Infant Death Investigation

Day 4

Start	End	Subject
0800	1000	Organ Donation
1000	1200	Forensic Photography
1300	1700	Drug Death Investigation

Day 5

Start	End	Subject
0800	1200	Autopsy Procedures and Time of Death Applications
1300	1500	Media Relation
1500	1700	Time of Death

Day 6

Start	End	Subject
0800	1000	Forensic Death Investigation/Crime Lab Procedures
1000	1200	Bloodstain Pattern Interpretation
1300	1500	Unusual Forensic Cases – Toxicology Interpretation
1500	1700	Basic Anatomy

Day 7

Start	End	Subject
0800	1000	Post-Traumatic Stress Disorder
1000	1200	Critical Incident Stress Management
1300	1500	Death Investigation in the Age of Terrorism
1500	1700	Asphyxial Deaths

Day 8

Start	End	Subject
0800	1000	Psychological Autopsy and Profiling
1000	1200	Tool Marks and Biological Material
1300	1500	Fire Death Investigation
1500	1700	Explosives

Day 9

Start	End	Subject
0800	1200	Forensic Dentistry
1300	1500	Anthropological Recovery
1500	1600	Forensic Anthropology
1600	1700	Bone Lab

Day 10

Start	End	Subject
0800	0900	Pediatric Forensic Pathology
0900	1000	Child Abuse and Neglect
1000	1100	Firearm and Electrical Injuries
1100	1200	Post Mortem Identification
1300	1500	Court Testimony
1500	1700	Final Exam-Test Results-POST Certificates

Course: PC 832 Arrest and Firearms – 80101/80102

Presenter: ORANGE COUNTY SHERIFF'S DEPARTMENT (2060)

Total Hours Per Course Presentation: 64

Total Number of Days of Class: **8**

Day 1 (Arrest)

Start	End	Subject
0800	1000	Leadership, Professionalism and Ethics
1000	1200	Criminal Justice System
1300	1700	LD 3- Policing the Community and LD 18- Investigative Report Writing

Day 2

Start	End	Subject
0800	1100	Use of Force
1200	1700	LD 33- Arrest and Control

Day 3

Start	End	Subject
0800	1100	LD 5- Introduction to Criminal Law
1200	1700	LD 33- Arrest and Control Final Block

Day 4

Start	End	Subject
0800	1100	LD 16- Search and Seizure
1100	1200	LD 15- Laws of Arrest
1300	1700	LD 15- Laws of Arrest

Day 5

Start	End	Subject
0800	1000	LD 17- Presentation of Evidence
1000	1200	LD 30- Crime Scenes, Evidence, and Forensics
1300	1500	LD 39- Crimes Against Justice System and LD 42- Cultural Diversity/Discrim.
1500	1700	Testing

Day 6 (Firearms)

Start	End	Subject
0800	1200	LD 35 Lecture
1300	1700	LD 35 Lecture

Day 7

Start	End	Subject
0800	1200	LD 35 Practical
1300	1700	LD 35 Practical

Day 8

Start	End	Subject
0800	1200	LD 35 Practical
1300	1700	LD 35 Test/Qualification

Course: CORONERS SYMPOSIUM, ADV – 34481

Presenter: ORANGE COUNTY SHERIFF'S DEPARTMENT (2060)

Total Hours Per Course Presentation: **32**
Total Number of Days of Class: **5**

CURRICULUM IS DEVELOPED ANNUALLY IN THE MONTHS LEADING UP TO THE SYMPOSIUM TO ENSURE CONTENT IS CONTEMPORARY, PERTINENT AND REFLECTS THE LATEST DEVELOPMENTS IN BEST PRACTICES.

Course: CORONER SAFETY UPDATE

Presenter: ORANGE COUNTY SHERIFF'S DEPARTMENT (2060)

Total Hours Per Course Presentation: **8**
Total Number of Days of Class: **1**

COURSE TO BE DEVELOPED

Course: EFFECTIVE INTERVIEWING IN A DEATH INVESTIGATION COURSE

Presenter: ORANGE COUNTY SHERIFF'S DEPARTMENT (2060)

Total Hours Per Course Presentation: **24**
Total Number of Days of Class: **3**

COURSE TO BE DEVELOPED

Course: WOUND IDENTIFICATION FOR FIRST RESPONDERS

Presenter: ORANGE COUNTY SHERIFF'S DEPARTMENT (2060)

Total Hours Per Course Presentation: **24**
Total Number of Days of Class: **3**

COURSE TO BE DEVELOPED

EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS

1. INVOICING AND PAYMENT

   A. The Contractor shall receive reimbursement for services satisfactorily rendered, and upon receipt and approval of the Contractor's invoices, the State agrees to compensate the Contractor for expenditures incurred consistent with the budget detail, up to the maximum amounts shown, in accordance with the cost breakdown, as described below.

   B. All costs indicated herein are fixed rates. Totals may change based on actual usage. Costs shall be paid in accordance with Exhibit B, Budget Overview, attached hereto not to exceed ~~$165,114.50~~ **$165,075.52**.

   C. POST agrees to compensate the Contractor for actual expenditures of equipment purchases made for the purpose of fulfilling the needs of the course, up to the maximum amount of ~~$165,114.50~~ **$165,075.52**. The Contractor shall submit invoices of each equipment purchase made in accordance with Exhibits E and F.

   D. Upon completion of each session, the Contractor agrees to submit a detailed invoice in duplicate with the following information before payment will be authorized:

      - Agreement Number
      - Course Date(s)
      - Budget breakdown showing the contracted amount and the actual amount per line item
      - Facility Costs
      - Itemized invoices and receipts for equipment, supplies and mailing purchased and travel receipts as required per CalHR requirements.

      Invoices not containing the above bulleted information will be disputed and payment will be held until complete information and/or documentation is submitted. The Contractor shall submit invoices not more frequently than monthly in arrears to the address provided below before the 15th of the upcoming month to:

      invoicereceived@post.ca.gov
      Commission on POST
      Accounting Section
      860 Stillwater Road, Suite 100
      West Sacramento, CA 95605-1630

2. BUDGET CONTINGENCY CLAUSE

A. It is mutually agreed that if the California State Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.

B. If funding for any fiscal year is reduced or deleted by the California State Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

3. PROMPT PAYMENT CLAUSE

A. Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

EXHIBIT B, ATTACHMENT I
BUDGET OVERVIEW

Course Title	Course	Estimated Number of Presentations	Cost Per Presentation	Estimated Course Totals
80-hour Coroner Course	31200	2	$16,955.00	$33,910.00
PC 832	80102	2	$3,907.50	$7,815.00
~~32-hr. Coroners Symposium, Adv~~	~~34481~~	~~1~~	~~$39,008.00~~	~~$39,008.00~~
Effective Interviewing in a Death Investigation	Pending	2	~~$4,965.00~~ **$6,394.51**	~~$9,930.00~~ **$12,789.02**
Officer Safety Update	Pending	2	$3,577.50	$7,155.00
Wound Identification for 1st Responders	Pending	1	$7,556.00	$7,556.00
Course Coordinator				
Course Coordinator				~~$53,240.00~~ **$9,350.00**
Equipment				
Internet Connectivity & Maintenance				$6,500.00
Mannequins				**$20,000.00**
Equipment Upgrades				**$60,000.00**
			TOTAL	**$165,075.52**

EXHIBIT B, ATTACHMENT II
80-HOUR CORONER COURSE, BUDGET DETAIL

COURSE BUDGET	State of California Department of Justice COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING 1601 Alhambra Boulevard Sacramento, California 95816-7083
Orange County Coroner	Technical
80 hr. Coroner Basic Course	

4. BUDGET SUMMARY COSTS	COST	
	SUBTOTAL	TOTAL
DIRECT COSTS		
A. Services		
(1) Instruction	$5,880.00	
(2) Coordination	$0.00	
(3) Clerical	$1,200.00	
(4) Printing/Reproduction	$3.00	
TOTAL SERVICES		$7,083.00
B. Supplies		
(1) Books/Pamphlets/Handouts	$14.00	
(2) Certificates	$30.00	
(3) Notebooks	$300.00	
(4) Paper/Office Supplies	$30.00	
TOTAL SUPPLIES		$374.00
C. Equipment		$500.00
D. Travel		
(1) Coordinator	$0.00	
(2) Instructors	$7,320.00	
TOTAL TRAVEL		$7,320.00
E. Miscellaneous		$580.00
DIRECT COSTS		$15,857.00
Management Oversight (5% of Total Direct Cost)	$0.00	$0.00
INDIRECT COSTS 15% of A 1,2,3, and D1 and 2	$7,320.00	$1,098.00
GRAND TOTAL		$16,955.00

32-HOUR CORONER SYMPOSIUM
BUDGET DETAIL

COURSE BUDGET	State of California Department of Justice COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Orange County Coroner's Office	Technical
Coroner Sympsium	

4. BUDGET SUMMARY COSTS	COST	
	SUBTOTAL	TOTAL
DIRECT COSTS		
A. Services		
(1) Instruction	$4,500.00	
(2) Coordination	$0.00	
(3) Clerical	$480.00	
(4) Printing/Reproduction	$60.00	
TOTAL SERVICES		$5,040.00
B. Supplies		
(1) Books/Pamphlets/Handouts	$1,800.00	
(2) Certificates	$0.00	
(3) Flashdrives	$450.00	
(4) Notebooks/Binders	$300.00	
(5) Handouts/Reporduction	$850.00	
(6) Classroom Supplies	$400.00	
TOTAL SUPPLIES		$3,800.00
C. Equipment		
(1) Audio/Video		$15,000.00
D. Travel		
(1) Coordinator	$440.00	
(2) Instructors	$12,100.00	
TOTAL TRAVEL		$12,540.00
E. Miscellaneous		$0.00
DIRECT COSTS		$36,380.00
Management Oversight (5% of Total Direct Cost)	$0.00	$0.00
INDIRECT COSTS 15% of A 1,2 3, and D 1 and 2	$17,520.00	$2,628.00
GRAND TOTAL		**$39,008.00**

PC 832 COURSE
BUDGET DETAIL

COURSE BUDGET	State of California Department of Justice COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Orange County Coroner's Office	Technical
PC 832 Course**	

4. BUDGET SUMMARY COSTS	COST	
	SUBTOTAL	TOTAL
DIRECT COSTS		
A. Services		
(1) Instruction	$2,730.00	
(2) Coordination	$0.00	
(3) Clerical	$600.00	
(4) Printing/Reproduction	$315.00	
TOTAL SERVICES		$3,645.00
B. Supplies		
(1) Books/Pamphlets/Handouts	$105.00	
(2) Certificates	$17.50	
(3) Flashdrives	$140.00	
(4) Paper/Office Supplies		
TOTAL SUPPLIES		$262.50
C. Equipment		$0.00
D. Travel		
(1) Coordinator	$0.00	
(2) Instructors	$0.00	
TOTAL TRAVEL		$0.00
E. Miscellaneous		$0.00
DIRECT COSTS		$3,907.50
Management Oversight (5% of Total Direct Cost)	$0.00	$0.00
INDIRECT COSTS 15% of A 1,2 3, and D 1 and 2	$3,330.00	$0.00
GRAND TOTAL		**$3,907.50**

24-HOUR EFFECTIVE INTERVIEWING COURSE
BUDGET DETAIL

COURSE BUDGET	State of California Department of Justice COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Orange County Coroner's Office	Technical
Effective Interviewing in a Death Investigation	

4. BUDGET SUMMARY COSTS	COST	
	SUBTOTAL	TOTAL
DIRECT COSTS		
A. Services		
(1) Instruction	$1,440.00	
(2) Coordination	$0.00	
(3) Clerical	$360.00	
(4) Printing/Reproduction	$315.00	
TOTAL SERVICES		$2,115.00
B. Supplies		
(1) Books/Pamphlets/Handouts	$0.00	
(2) Certificates	$30.00	
(3) Flashdrives	$300.00	
(4) Paper/Office Supplies	$200.00	
TOTAL SUPPLIES		$530.00
C. Equipment		$500.00
D. Travel		
(1) Coordinator	$0.00	
(2) Instructors	$1,000.00	
TOTAL TRAVEL		$1,000.00
E. Miscellaneous		$400.00
DIRECT COSTS		$4,545.00
Management Oversight (5% of Total Direct Cost)	$0.00	$0.00
INDIRECT COSTS 15% of A 1,2 3, and D 1 and 2	$2,800.00	$420.00
GRAND TOTAL		**$4,965.00**

24-HOUR EFFECTIVE INTERVIEWING COURSE
BUDGET DETAIL

COURSE BUDGET	State of California Department of Justice COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Orange County Coroner's Office	Technical
Effective Interviewing in a Deatah Investigation	

4. BUDGET SUMMARY COSTS	**COST**	
	SUBTOTAL	**TOTAL**
DIRECT COSTS		
A. Services		
(1) Instruction	$4,320.00	
(2) Coordination	$165.00	
(3) Clerical	$360.00	
(4) Printing/Reproduction	$54.00	
TOTAL SERVICES		$4,899.00
B. Supplies		
(1) Books/Pamphlets/Handouts	$0.00	
(2) Certificates	$30.00	
(3) Flashdrives	$300.00	
(4) Paper/Office Supplies	$213.76	
TOTAL SUPPLIES		$543.76
C. Equipment		$100.00
D. Travel		
(1) Coordinator	$0.00	
(2) Instructors	$0.00	
TOTAL TRAVEL		$0.00
E. Miscellaneous		$125.00
DIRECT COSTS		$5,667.76
Management Oversight (5% of Total Direct Cost)	$0.00	$0.00
INDIRECT COSTS 15% of A 1,2 3, and D 1 and 2	$4,845.00	$726.75
GRAND TOTAL		**$6,394.51**

8-HOUR CORONER SAFETY UPDATE COURSE
BUDGET DETAIL

COURSE BUDGET	State of California Department of Justice **COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING**
Orange County Coroner's Office	Technical
Officer Safety Update	

4. BUDGET SUMMARY COSTS	**COST**	
	SUBTOTAL	**TOTAL**
DIRECT COSTS		
A. Services		
(1) Instruction	$480.00	
(2) Coordination	$0.00	
(3) Clerical	$120.00	
(4) Printing/Reproduction	$60.00	
TOTAL SERVICES		$660.00
B. Supplies		
(1) Books/Pamphlets/Handouts	$6.00	
(2) Certificates	$30.00	
(3) Flashdrives	$300.00	
(4) Paper/Office Supplies	$200.00	
TOTAL SUPPLIES		$536.00
C. Equipment		$500.00
D. Travel		
(1) Coordinator	$0.00	
(2) Instructors	$1,210.00	
TOTAL TRAVEL		$1,210.00
E. Miscellaneous		$400.00
DIRECT COSTS		$3,306.00
Management Oversight (5% of Total Direct Cost)	$0.00	$0.00
INDIRECT COSTS 15% of A 1,2 3, and D 1 and 2	$1,810.00	$271.50
GRAND TOTAL		**$3,577.50**

24-HOUR WOUND IDENTIFICATION COURSE
BUDGET DETAIL

COURSE BUDGET	State of California Department of Justice COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
Orange County Coroner's Office	Technical
Wound Indentification for 1st Responders	

4. BUDGET SUMMARY COSTS	COST	
	SUBTOTAL	TOTAL
DIRECT COSTS		
A. Services		
(1) Instruction	$1,680.00	
(2) Coordination	$0.00	
(3) Clerical	$360.00	
(4) Printing/Reproduction	$60.00	
TOTAL SERVICES		$2,100.00
B. Supplies		
(1) Books/Pamphlets/Handouts	$100.00	
(2) Certificates	$30.00	
(3) Flashdrives	$250.00	
(4) Paper/Office Supplies	$200.00	
(5) Crayola Air Dry Clay 2.5 lbs	$40.00	
(6) Plastic toy tools (Niuniu Daddy 34 piece children erepair tool toy set)	$96.00	
(7) Bite Wax Plate	$15.00	
TOTAL SUPPLIES		$731.00
C. Equipment		$500.00
D. Travel		
(1) Coordinator	$0.00	
(2) Instructors	$3,060.00	
TOTAL TRAVEL		$3,060.00
E. Miscellaneous		$400.00
DIRECT COSTS		$6,791.00
Management Oversight (5% of Total Direct Cost)	$0.00	$0.00
INDIRECT COSTS 15% of A 1,2 3, and D 1 and 2	$5,100.00	$765.00
GRAND TOTAL		**$7,556.00**

CORONER COURSE COORDINATOR
BUDGET DETAIL

Course Title	Course Hrs.	Coordination Hrs.	Course Prep. Hrs.	Post course Hrs.	Total Course Hrs.	# of course	Total Hrs.
Coroner 80 hour Basic	80	~~80~~	~~40~~ **35**	~~20~~ **15**	~~140~~ **50**	2	280 **100**
~~Coroner Symposium~~	~~32~~	~~32~~	~~60~~	~~20~~	~~112~~	~~1~~	~~112~~
Interviewing Course	24	~~24~~	20	~~20~~ **15**	~~64~~ **35**	2	~~128~~ **70**
~~Officer Saftey Course~~	~~8~~	~~8~~	~~20~~	~~20~~	~~48~~	~~2~~	~~96~~
~~Wound ID Course~~	~~24~~	~~24~~	~~20~~	~~20~~	~~64~~	~~1~~	~~64~~
~~832 Firearms/Laws of Arrest~~	~~64~~	~~64~~	~~40~~	~~40~~	~~144~~	~~2~~	~~288~~
				Totals		~~10~~ **4**	~~968~~ **170**

		Hourly Rate		Total Hours		Total Coordination Cost	
Coordination		$55.00	X	~~968~~ **170**	=		~~$53,270.00~~ **$9,350.00**

EXHIBIT D
SPECIAL TERMS AND CONDITIONS

1. SETTLEMENT OF DISPUTES: Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by compromise shall be decided by POST, who shall produce its decision notification decision in writing and mail or otherwise furnish a copy thereof to the Contractor. The Contractor shall have fifteen (15) calendar days after receipt of such a decision to submit a written protest to POST specifying in detail in what particulars the Agreement requirements were exceeded. If the Contractor fails to submit such a protest within the period specified above shall constitute a waiver of any and all rights to adjustment in the Agreement terms and POST's decision shall be final and conclusive. Pending POST final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of this Agreement.
2. AMENDMENTS: This Agreement may be amended for time, scope, increase or decrease of funds by mutual written consent.
3. TERMINATION CLAUSE: This Agreement may be terminated by either party, at any time, with or without cause, by delivering thirty days written notice to the other party. In addition, POST reserves the right to require the Contractor to terminate any employee, representative or approved subcontractor providing services on behalf of the Contractor under this Agreement (a) at any time, with or without cause, by delivering thirty day written notice to the Contractor; or (b) immediately, with cause, which for purposes hereof means such employee, representative or approved subcontractor has engaged in conduct deemed to be illegal, immoral, fraudulent, inappropriate or unprofessional as determined by POST. The Contractor shall provide timely evidence to POST of its compliance with the foregoing employee, representative or approved subcontractor terminations. Failure to comply may result in the de-certification of the Contractor's presentation.
4. CONTRACTOR EVALUATION (*if applicable*): In accordance with provisions of the Pubic Contract Code, PCC § 10367, 10369 and 10370, the Contractor's performance under this Agreement will be evaluated. The evaluation will be prepared by POST within 60 days after completion of the Agreement.
5. TRAVEL (*if applicable*): Travel expenses and per diem related to the services provided under this Agreement are subject to prior approval by the POST representative, and shall not exceed the rates paid to State non-represented/excluded employees.

   Rate information may be viewed at
   http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx.

6. SUBCONTRACTING (*if applicable*): The Contractor is expected to perform the services contemplated with the resources available within its own organization. Subcontracting of work pertinent to this Agreement shall be upon prior written consent by POST and subject to the permissive conditions set forth in the State Contracting Manual Section 3.06.

   Based on “reasonable effort” to the best of its ability, the Contractor warrants, represents and agrees that it and its subcontractors, employees and representatives will, at all times when performing services under this Agreement (a) comply with all applicable local, city, county, state and federal laws, codes, statutes, ordinances, rules and regulations; and (b) fulfill student course expectations.

   The Contractor shall notify POST in writing immediately upon termination of any such subcontract(s).

County Executive Office

S37F

Memorandum

2020 DEC -9 AM 11:49

December 8, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: Sheriff-Coroner
Subject: Approve Motorola Solutions, Inc. Contract for 800 MHz Equipment
Districts: All Districts

Reason for supplemental: The County Executive Office is requesting this Supplemental item be heard on the December 15, 2020, Board agenda to resume purchasing radio equipment and accessories in support of the Countywide Coordinated Communications System. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: _____
Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item S37F
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	Sheriff-Coroner
DEPARTMENT HEAD REVIEW:	*Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Brian Wayt (714) 647-1803 Dave Fontneau (714) 704-7919

SUBJECT: Approve Motorola Solutions, Inc. Contract for 800 MHz Equipment

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
CEO Signature	APPROVE AS TO FORM *Action* *County Counsel Signature*	Discussion 3 Votes Board Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** N/A **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years** No

Prior Board Action: 5/5/2015 #12, 10/1/2013 #3, 4/20/2010 #8

RECOMMENDED ACTION(S)

1. Authorize the County Procurement Officer or authorized Deputy to execute the sole source contract between the County of Orange and Motorola Solutions, Inc., Price Book Agreement, for the purchase of radio equipment and services, for the term effective upon Board approval through May 20, 2025.

2. Authorize the County Procurement Officer or authorized Deputy to make minor modifications to the price pages.

SUMMARY:

Approval of the sole source contract with Motorola Solutions Inc. will allow the Sheriff-Coroner to define pricing for Motorola equipment and services in support of the Countywide Coordinated Communications System, which serves as the County's public safety radio system.

BACKGROUND INFORMATION:
The Sheriff-Coroner Department (Sheriff) operates and maintains the 800 MHz Countywide Coordinated Communications System (CCCS), which provides centralized, interoperable voice radio communications for the County and its 34 cities, including all public safety and public service agencies, as well as a number of private, state and federal agencies that provide support to the above agencies and/or have relevant communications requirements. The County entered into a $70.4 million contract with Motorola Solutions, Inc. (formerly Motorola Inc.) (Motorola) in September 1995 to provide the 800 MHz CCCS integrated radio communications system. The previous five-year master agreement with Motorola was approved by the Board of Supervisors (Board) on April 20, 2010. The contract expired on May 20, 2015. On October 1, 2013, the Board approved the 800 MHz CCCS Partnership, Contract MA-060-14010409 with Motorola to upgrade radio equipment, in an amount not to exceed $495,497, for the term of October 1, 2013, through September 30, 2014. Additionally, on May 25, 2015, the Board approved an Equipment Price Book MA-060-15011560.

The 800 MHz CCCS consists of Motorola's Astro 25 technology, which includes certain specialized features including, but not limited to, Radio Management, Group Services and Location on PTT, which are embedded in both the infrastructure and the subscriber equipment (e.g., mobiles, portables, control stations, etc.). In addition, Motorola equipment is capable of encrypted voice transmission, utilized by all law enforcement and fire agencies throughout the County. Only Motorola equipment is capable of proprietary encryption features that can remotely inhibit and zeroize lost or stolen equipment. Mobile, portable and fixed station equipment operated by participating CCCS agencies must include all the same feature sets in order to be utilized on the 800 MHz CCCS network. This expert technical support from the system engineers and equipment manufacturer is critical to maintain the integrity and performance of the 800 MHz CCCS, to effectively troubleshoot system problems, and expedite system and equipment restoration. The proposed contract is a sole source contract, and a completed Sole Source Request Form is attached to this Agenda Staff Report (Attachment B). This contract is being submitted to the Board six months after the expiration of the previous Price book due to an extended period of negotiation between Motorola and Sheriff regarding the technology needed in the Price Book. A redline version of the previous amendment is not attached as the price contract just includes new pricing.

Sheriff now requests approval and authorization to execute the County of Orange and Motorola, Price Book Contract as referenced in the Recommended Actions. The contract defines negotiated prices and/or discounts for certain radio communications equipment and services that apply directly to the operation of the County's Motorola Astro 25® 800 MHz CCCS. It may be necessary from time to time to add or delete certain products or items identified on the price pages contained within the contract; therefore, authorization is requested to allow for minor modifications to the price pages without further Board action.

Compliance with California Environmental Quality Act (CEQA): The proposed project was previously determined to be Categorically Exempt from the CEQA pursuant to Section 15301 (Class 1) of the CEQA Guidelines, which provides for the exemption of repair, maintenance, and minor alterations of public structures or facilities involving negligible or no expansion of existing use, on October 1, 2013, when it was originally approved.

FINANCIAL IMPACT:
There is no financial impact associated with this pricing contract. Authorized agencies wishing to procure items through the contract will issue individual purchase orders to Motorola or its authorized agents to purchase equipment based on the terms, conditions and pricing set forth in this contract.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Price Book between the County of Orange and Motorola Solutions, Inc.
Attachment B - Sole Source Request Form

ORANGE COUNTY **MAY 21, 2020**

ORANGE COUNTY EQUIPMENT AND SERVICES PRICE BOOK AGREEMENT # MA-060-21010004

800 MHZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM

MOTOROLA

The design, technical, pricing, and other information ("Information") furnished with this submission is proprietary information of Motorola Solutions, Inc. ("Motorola") and is submitted with the restriction that it is to be used for evaluation purposes only. To the fullest extent allowed by applicable law, the Information is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the Information without the express written permission of Motorola.

MOTOROLA, MOTO, MOTOROLA SOLUTIONS, and the Stylized M Logo are trademarks or registered trademarks of Motorola Trademark Holdings, LLC and are used under license. All other trademarks are the property of their respective owners. © 2015 Motorola Solutions, Inc. All rights reserved.

Contents

800 Mhz Countywide Coordinated Communications System.....i
Section 1 1-1
Introduction 1-1
Section 2 2-1
Exhibit A: System Overview 2-1
2.1 800 MHz Countywide Coordinated Communications System (CCCS)..... 2-1
2.2 800 MHz CCCS Radio System..... 2-1
2.3 800 MHz CCCS Radio System Capabilities..... 2-1
2.4 Conventional Mutual System..... 2-1
Section 3 3-1
3.1 Exhibit A: Warranty, Services and Options 3-1
3.2 Motorola Parts Department 3-1
3.3 Warranty 3-2
3.4 Product Warranty 3-2
3.5 Parts Warranty 3-2
3.6 Services 3-2
3.7 Maintenance Agreement for Select Subscriber Radios..... 3-2
3.8 Engineering and Technical Services..... 3-2
3.9 Online Motorola Shop..... 3-2
Section 4 4-1
Exhibit A: Customer Order Numbers 4-1
4.1 Customer Order Numbers 4-1
Section 5 5-1
Exhibit A: Mobile Radios..... 5-1
5.1 APX 6500 Project 25 Digital Mobile Radios 700/800 MHz..... 5-1
5.2 APX 6500 ENHANCED Mobile Radio Encryption with DEK 5-2
5.3 APX 6500 Mobile Radio Encryption–No DEK..... 5-2
5.4 APX 6500 Mobile Radio–No Encryption and No DEK..... 5-3
5.5 APX 6500 ENHANCED Dual Control Head with Encryption APX 5-3
5.6 APX 6500 Mobile with 03 Control Head 700/800 MHz Project 25 Disguised Hand-Held Controller for Public Safety and Police..... 5-5
5.7 APX 6500 Mobile Accessories and Service Options..... 5-6
5.8 APX 6500 Accessories..... 5-6
5.9 APX 6500 Service Options..... 5-6
5.10 APX 8500 Mobile All Band Radios 5-7
5.11 APX 8500 Multiband Mobile with DEK and Encryption 5-8

5.12 APX 8500 Delete Frequency Band (Optional) 5-8
5.13 APX 8500 Multiband Mobile-Dual Control Head with Encryption 5-9
5.14 APX 8500 Delete Frequency Band (Optional) 5-10
5.15 APX 8500 Mobile with 03 Control Head Option 700/800 MHz Project 25 Disguised Hand-Held Controller for Public Safety and Police 5-11
5.16 APX 8500 Mobile All Band Radio with 03 Control head and Encryption 5-11
5.17 APX 8500 Delete Frequency Band (Optional) 5-12
5.18 APX 8500 Service Options 5-12
5.19 APX 4500 Mobile Radio 5-13
5.20 APX4500 Mobile Radio with Encryption 5-14
5.21 APX 4500 Mobile Radio No Encryption 5-14
5.22 APX 4500 Service Options 5-15
5.23 APX 6500 ENHANCED Hot Red Receiver Mobile Radio 5-16
5.24 APX 6500 ENHANCED Hot Red Receiver Motorcycle Radio 5-17
5.25 Mobile Control Head Conversion Kits 5-19
5.26 O2 Conversion Kits 5-19
5.27 O3 Control Head Conversion Requirements 5-19
5.28 O7 Control Head Conversion Kits 5-19
5.29 O3 AND O7 Control HeadS (No Radio) 5-20
5.30 O3 and O7 Control Head Ordering Instructions 5-20

Section 6 6-1

Exhibit A: Portable Radios 6-1

6.1 APX 6000 Features 6-1
6.2 APX 6000 Portable Radio Model 3.5-with Encryption and High Capacity Battery 6-3
6.3 APX 6000 Portable Model 3.5 with High Capacity Battery - No Encryption 6-3
6.4 APX 6000 Portable Model 2.5 with Encryption and High Capacity Battery 6-4
6.5 APX 6000 Portable Model 2.5 with High Capacity Battery - No Encryption 6-4
6.6 APX 6000 Spare Batteries 6-5
6.7 APX 6000XE Portable Radios 6-6
6.8 APX 6000XE Portable Radio Model 3.5 with Encryption 6-7
6.9 APX 6000XE 3.5 with Encryption and Yellow Housing 6-7
6.10 APX 6000XE 3.5 with Encryption and Green Housing 6-7
6.11 APX 6000XE Portable Radio Model 2.5 with Encryption 6-8
6.12 APX 6000XE 2.5 with Encryption and Yellow Housing 6-8
6.13 APX 6000XE 2.5 with Encryption and Green Housing 6-8
6.14 APX 6000XE Spare Battery 6-8
6.15 APX 6000 and APX 6000XE Service Options 6-9
6.16 APX 8000 Radio Description 6-10
6.17 APX 8000 Portable Radios Description 6-10
6.18 APX 8000 Features 6-10
6.19 APX 8000 Model 3.5 All Band Portable with Encryption 6-11
6.20 APX 8000 Model 3.5 All Band Portable–No Encryption 6-11

6.21 APX 8000 3.5 Additional Options 6-12
6.22 APX 8000 3.5 Delete Frequency Band (Optional) 6-12
6.23 APX 8000 Spare Batteries 6-12
6.24 APX 8000XE Ruggedized Radio Description 6-13
6.25 APX 8000XE Portable Radios Description 6-13
6.26 APX 8000XE Features 6-13
6.27 APX 8000XE Model 3.5 Ruggedized All Band Portable with Encryption 6-14
6.28 APX 8000XE Model 3.5 Ruggedized Dual Band Portable–No Encryption 6-14
6.29 APX 8000XE 3.5 Additional Options 6-15
6.30 APX 8000XE 3.5 Delete Frequency Band (Optional) 6-15
6.31 APX 8000XE Yellow Housing (Optional) 6-15
6.32 APX 8000XE 2.5 Green Housing (Optional) 6-15
6.33 APX 8000XE Spare Battery 6-15
6.34 Chargers For APX 6000, APX 6000XE, APX 8000 and APX 800XE 6-16
6.35 APX 4000 Digital 700/800 MHz Portable Radios 6-17
6.36 APX 4000 Portable Radios Description 6-17
6.37 APX 4000 Portable Radio Model 3 with Encryption 6-18
6.38 APX 4000 Portable Radio Model 3 - No Encryption 6-18
6.39 APX 4000 Portable Radio Model 2 with Encryption 6-18
6.40 APX 4000 Portable Radio Model 2 - No Encryption 6-19
6.41 APX 4000 Accessories 6-19
6.42 Spare Batteries 6-19
6.43 Chargers 6-19

Section 7 7-1

Exhibit A: APX8500 Control Stations and Consolettes 7-1

7.1 APX 8500 Description 7-1
7.2 APX 8500 Consolette Description 7-1
7.3 Consolette Features 7-2
7.4 APX 8500 Single Band Consolette 700/800MHZ with Encryption and Full Front Panel (AC Power Cord) 7-3
7.5 APX 8500 Single Band Consolette 700/800 MHz Full Front Panel- No Encryption (AC Power Cord) 7-3
7.6 APX 6500 ENHANCED 700/800 MHz Control Station with Encryption (Single Band Only) . 7-4
7.7 APX 8500 Mobile All Band Control Station Radio with Encryption 7-4
7.8 APX 8500 Control Station Delete Frequency Band (Optional) 7-5
7.9 APX 4500 Single Band Control Station Radio-with Encryption 7-6
7.10 APX 4500 Single Band Control Station Radio-NO Encryption 7-6
7.11 APX Desktop Mobile Tray (Compatible with APX4500, APX6500 and APX8500) 7-6

Section 8 8-7

8.1 EXHIBIT A: MCD5000 Deskset and Radio Gateway Unit (RGU) 8-7
8.2 MCD 5000 Deskset 8-7

8.3 Radio Gateway Unit (RGU) 8-7
8.4 MCD 5000 Deskset and Radio Gateway Unit (RGU) 8-8
Section 9 9-9
Exhibit A: Dispatch Center Equipment 9-9
9.1 Additional Fixed System and Dispatch Center Equipment 9-9
Section 10 10-1
10.1 Exhibit A: Additional Discounts 10-1
10.2 Notes 10-3
Section 11 11-1
Terms and Conditions 11-1
11.1 Price Book Agreement 11-1
Section 12 12-1
Exhibit B: Software License Agreement 12-1
Section 13 13-1
Exhibit C: County Participants 13-1

SECTION 1

INTRODUCTION

Motorola is pleased to present the **Orange County Equipment Price Book**. The equipment type, models and prices shown are from Motorola's **Agreement # MA-060-21010004, Dated May 21, 2020** to provide a coordinated communications system to the numerous agencies in the County of Orange. Motorola agrees to offer equipment and contract prices contained within the price book to any other public agency (i.e., city, district, public authority, public agency, authorized private agencies, municipality and other political sub-division or public corporation of California). Each agency may contract directly through Motorola for equipment as required.

All equipment offered in the price book meets the operational requirements established by the 800 MHz CCCS Governance Committee and 800 MHz Users Group for system compatibility. The price book contains a brief overview of the 800 MHz CCCS Voice System, recommended products, and descriptions.

The Terms and Conditions of the Price Book will not change unless both the County and Motorola agree to changes in writing. However, products and services in the Price Book will change as products are cancelled and new products are released.

Division Director
Dave Fontneau
Administration
Phone: (714) 704-7919
dfontneau@ocsd.org

Senior Telecom Engineer
Nicolas Condaras
Technical Services Unit
Programming, Installation, and Repair for Mobiles and Dispatch Centers
Phone: (714) 704-7953
ncondaras@ocsd.org

Senior. Telecom Engineer
Erik Schull
Emergency Communications Unit
Special Projects and RACES
Phone : (714) 704-7937
eschull@ocsd.org

Emergency Training Coordinator
Peter Jimenez
Emergency Communication Coordinator
Training Officer and Mutual Aid Programming Requests
714-704-8080
pjimenez@ocsd.org

For 800 MHz CCCS policies, radio programming, training and system information, contact the appropriate person above.

Use or disclosure of this Price Book is subject to the restrictions on the cover page.

For Product, Equipment, System Engineering, or Service information, please contact the specific Motorola Representative listed below:

Motorola Representative Contact Information	
Kim Caplan—Senior Account Manager Mobile: (858) 442-3979 Fax: (760) 630-4119 Email: kim.caplan@motorolasolutions.com For Quantity Discounts Please Contact Kim Caplan.	
Andrew Gretencord—Inside Sales Contact for: ▪ Quotes, questions on existing orders/status of orders/purchase orders Phone: (872) 242-5370 andrew.gretencord@motorolasolutions.com	**Motorola Parts** Contact for: ▪ To check on parts availability, compatibility, part number replacements Phone: (800) 422-4210 Option #3
Customer Care Contact for: ▪ Opening Cases ▪ Phone: (800)227-6772 Customercare.services@motorolasolutions.com	**Tattu Bekenova-Accounts Receivable Specialist** Contact for: ▪ Invoice Questions Phone: (631)883-4244 Tattybubu.bekonova@motorolasolutions.com
Shop Motorola Contact for: ▪ Ordering Accessories Online ▪ Website: https://shop.motorolasolutions.com/	**Anna Kocol —Credit Analyst** Contact for: ▪ Billing Questions Phone: (631) 729-2492 anna.kocol@motorolasolutions.com

SECTION 2

EXHIBIT A: SYSTEM OVERVIEW

2.1 800 MHZ COUNTYWIDE COORDINATED COMMUNICATIONS SYSTEM (CCCS)

2.2 800 MHZ CCCS RADIO SYSTEM

The 800 MHz Countywide Coordinated Communications System (800 MHz CCCS) participating public safety and public service organizations provide the existing radio communication system throughout Orange County with the Motorola *ASTRO* Digital/Analog Trunked 800 MHz *SmartZone* radio system.

2.3 800 MHZ CCCS RADIO SYSTEM CAPABILITIES

- Provides Countywide agency interoperability
- Provides expanded coverage throughout the County
- Provides improved emergency response for all citizens in Orange County
- Increases personnel safety and productivity
- Enhances mutual aid communications capability
- Improves ability to respond to major disasters (i.e., fires, floods)

The 800 MHz CCCS provides effective and reliable radio communications for routine interagency operations as well as interagency communications throughout the region during mutual aid and disaster operations.

Public Safety includes all law enforcement, fire service, EMS, lifeguard and disaster preparedness agencies in Orange County.

Public Service includes other participating organizations in Orange County whose primary responsibility is providing non-public safety services.

2.4 CONVENTIONAL MUTUAL SYSTEM

A separate 800 MHz Conventional Mutual Aid System was implemented, to provide Mutual Aid communications capabilities at the local, County, Regional, State and National levels.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

SECTION 3

3.1 EXHIBIT A: WARRANTY, SERVICES AND OPTIONS

3.2 MOTOROLA PARTS DEPARTMENT

Call 1 (800) 422-4210, select Option #3 for parts information & pricing.

Organization/Dept Radio Equipment Selection Worksheet					
Item	**Qty**	**Model/Option**	**Description**	**Unit $**	**Total $**
Organization Name: Address: City, State, Zip: Approved by: Date: Phone No: Fax No:				Total Equip	
				Tax	
				Installation	
				Programming	
				TOTAL	

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

3.3 WARRANTY

3.4 PRODUCT WARRANTY

Motorola warrants that all subscriber Mobiles, Portable, Accessories, Parts and Fixed Equipment products provided in the 800 MHz CCCS "Price Book" will be free from defects in design, material, and workmanship for the Warranty Period of 1 year from date of shipment as provided in the Motorola Standard Commercial Warranty, or upon beginning of any other specified warranty period. Motorola will repair or replace defective parts free of charge, including freight, during the product warranty period. Future subsystems warranty periods will be determined at the time of purchase.

3.5 PARTS WARRANTY

For one (1) year from the date of shipment to Licensee, Motorola warrants that component parts and boards that it provides under this Agreement will be free from material defects in materials and workmanship under normal use and service.

3.6 SERVICES

Repairs under the standard 1 year warranty can be made at any qualified Motorola Service Center, or Motorola Subscriber Depots. Repairs under the 3-5 year extended warranty must be made at a Motorola Subscriber Depot. Motorola will pay for outbound shipping via Motorola's normal shipping methods. For repair issues please call (800) 814-0601 or e-mail Motorola Customer Care at customercare.services@motorolasolutions.com .

3.7 MAINTENANCE AGREEMENT FOR SELECT SUBSCRIBER RADIOS

Motorola can offer a maintenance agreement for Motorola equipment that does not have the Essential Service option available . Maintenance costs can be obtained from your Motorola Account Manager at the time of equipment price quotation.

3.8 ENGINEERING AND TECHNICAL SERVICES

Motorola can provide engineering and technical services to help satisfy particular requirements for existing or future needs. This includes, but is not limited to Engineering, Project Management, System Technologist and Installation services. Services can be purchased via the Orange County Price Book. The cost for services can be based on an 8 hour day or quoted per task or job.

3.9 ONLINE MOTOROLA SHOP

Customers may now take advantage of ordering parts and accessories, push to talk solutions and walkie talkies online at https://shop.motorolasolutions.com/.

SECTION 4

EXHIBIT A: CUSTOMER ORDER NUMBERS

4.1 CUSTOMER ORDER NUMBERS

Customer	Order Number
A	
Aliso Viejo Police Services	1036272582
Aliso Viejo Public Works	1036272582
Anaheim Fire Dept	1000404252
Anaheim Police Dept	1011860112
Anaheim Public Works	1000816415
B	
Brea Fire Dept	1012328523
Brea Police Dept	1012328525
Brea Public Works	1000816473
Buena Park Police Dept	1000557209
Buena Park Public Works	1000557176
C—E	
California State University Fullerton	1000836819
Coast Community College	1036844422
Costa Mesa Fire Dept	1000428905
Costa Mesa Police Dept	1000428905
Costa Mesa Public Works	1000428905
Cypress Police Dept	1000404335
Cypress Public Works	1000404343
Dana Point Police Services	1036124072
Dana Point Public Works	1036124072
F	
Fountain Valley (The City of)	1036460385
Fountain Valley Fire Dept	1000829567
Fountain Valley Police Dept	1000829533
Fountain Valley Public Works	1000829492

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Customer	Order Number
Fullerton Fire Dept	1000404369
Fullerton Police Dept	1000816598
Fullerton Public Works	1000557259

Customer	Order Number
G—I	
Garden Grove Fire Dept	1000404400
Garden Grove Police Dept	1000404418
Garden Grove Public Works	1000404393
Huntington Beach Fire Dept	1000428632
Huntington Beach Lifeguards	1000561177
Huntington Beach Police Dept	1000561177
Huntington Beach Public Works	1000561177
Irvine Police Dept	1000324872
Irvine Public Works	1000324872
Irvine Valley College	1012565521
J—N	
John Wayne Airport	1036315506
La Habra Fire Dept	1036253003
La Habra Police Dept	1000404434
La Habra Public Works	1000404434
La Palma Police Dept	1000404468
La Palma Public Works	1000761272
Laguna Beach Fire Dept	1036127315
Laguna Beach Lifeguards	1000561424
Laguna Beach Police Dept	1000428960
Laguna Beach Public Works	1000428690
Laguna Hills Police Services	1036067610
Laguna Hills Public Works	1036067610
Laguna Niguel Police Services	1012565571
Laguna Niguel Public Works	1012565571
Laguna Woods Police Services	1036152487
Laguna Woods Public Works	1036152487

Customer	Order Number
Los Alamitos Police Dept	1000404484
Los Alamitos Public Works	1000558538
Metro Net Fire	1035477456
Newport Beach Fire Dept	1000428715
Newport Beach Lifeguards	1035041326
Newport Beach Police Dept	1012685064
Newport Beach Public Works	1000710584
O	
Orange County Coroner	1000829137
Orange County District Attorney	1036826264
Orange County Fire Authority	1000415522
Orange County Health Care Agency	1035915159
Orange County Lifeguards	1035915159
Orange County Probation	1036686072
Orange County Public Works	1012565795
Orange County Sanitation District	1000415548
Orange County Communications	1012978592
Orange County Sheriff Department	1000415530
Orange County Transportation Authority	1000218900
Orange Fire Dept	1000404509
Orange Police Dept	1000404525
Orange Public Works	1000557291
P—S	
Placentia, City of	1000404541
Placentia Police Dept	1000557308
Placentia Public Works	1000404541
Rancho Santa Margarita Police Services	1036043917
Rancho Santa Margarita Public Works	1036043917
Saddleback College	1000379786
Santa Ana Police Dept	1012338209
Santa Ana Public Works	1000428799
Santa Ana Unified School District	1035079202

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Customer	Order Number
San Clemente Lifeguards	1000428731
San Clemente Police Services	1000428723
San Clemente Public Works	1000428723
San Juan Capistrano Police Services	1011360344
San Juan Capistrano Public Works	1011360344
Seal Beach Lifeguards	1000428848
Seal Beach Police Dept	1000442822
Seal Beach Public Works	1000442822
Social Services (SSA)	1036133544
Stanton Police Services	1000558760
Stanton Public Works	1000404591
Swinerton	1036923101
T—Z	
Tustin Police Dept	1000428856
Tustin Public Works	1000428856
Villa Park Police Services	1000224915
Villa Park Public Works	1035012509
Westminster Police Dept	1000428872
Westminster Public Works	1000428856
Yorba Linda Police Services	1000404567
Yorba Linda Public Works	1000404567

Note: This list is not all inclusive of the agencies currently under the 800 MHz contract. For further information, please contact Kim Caplan at 858-442-3979.

SECTION 5

EXHIBIT A: MOBILE RADIOS

5.1 APX 6500 PROJECT 25 DIGITAL MOBILE RADIOS 700/800 MHZ



Figure 5-1:APX 6500 Enhanced Mobile Shown with O7 Control Head

From street patrols to multi-agency response APX 6500 Enhanced mobiles provide the highest level of interoperability. APX mobiles can work across multiple digital and analog networks from conventional, to SMARTNET® and SmartZone® to ASTRO® 25 providing true P25 interoperability. The APX 6500 has evolved to support newer technologies like Wi-Fi, and SmartConnect. Direct cloning with Legacy models will not be available.

Control Head Variety

The APX 6500 Enhanced mobile is available with the O7, control head, O5 control head, O2 control head and the 03 handheld control head. In addition, the APX 6500 is available in a dual control head configuration. The County recommends the O7 control head.

Enhanced Frequency Spectrum Utilization

The APX 6500 Enhanced mobile radio is designed to offer multiple frequency band solutions for perfect system optimization in congested urban areas or wider country regions. Motorola currently offers the 700/800 MHz dual band (764-870MHz), 10-35 watt variable power, VHF (136-174 MHZ), UHF Range 1 (380-470 MHz) and UHF Range 2 (450-520 MHz).

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG. https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.2 APX 6500 ENHANCED MOBILE RADIO ENCRYPTION WITH DEK

Package Price: $5,539

Model	Description
M25URS9PW1BN	APX6500 ENHANCED 7/800 MHZ MID POWER MOBILE 10-35 WATT
G51	ADD: SMARTZONE OPERATION
G806	ADD: ASTRO DIGITAL CAI OPERATION
G361	ADD: P25 TRUNKING SOFTWARE
GA00805	ADD: APX O7 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G67	ADD: REMOTE MOUNT MID POWER
G335	ADD: ANT 1/4 WAVE 762-870 MHZ
W22	ADD: PALM MICROPHONE
B18	ADD: AUXILIARY SPKR 7.5 WATT
W599	ADD: 8 MODE DIRECT ENTRY
G996	ENH: OVER THE AIR PROVISIONING
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD: GROUP SERVICES
G78	ADD: 3 YEAR ESSENTIAL SERVICE

Note: Dash Mount Not Available With DEK.

5.3 APX 6500 ENHANCED MOBILE RADIO ENCRYPTION–NO DEK

Package Price: $5,409

Model	Description
M25URS9PW1BN	APX6500 ENHANCED 7/800 MHZ MID POWER MOBILE 10-35 WATT
G51	ADD: SMARTZONE OPERATION
G806	ADD: ASTRO DIGITAL CAI OPERATION
G361	ADD: P25 TRUNKING SOFTWARE
GA00805	ADD: APX O7 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G67	ADD: REMOTE MOUNT MID POWER
G335	ADD: ANT 1/4 WAVE 762-870 MHZ
W22	ADD: PALM MICROPHONE
B18	ADD: AUXILIARY SPKR 7.5 WATT
G996	ENH: OVER THE AIR PROVISIONING
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD: GROUP SERVICES
G78	ADD: 3 YEAR ESSENTIAL SERVICE
	NOTES FOR THIS RADIO CONFIGURATION ON NEXT PAGE

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Note: For Dash Mount Delete G67 (Remote) and Add G66 (Dash Mount 02 WWM) Decrease the cost of the package $145.

5.4 APX 6500 ENHANCED MOBILE RADIO–NO ENCRYPTION AND NO DEK

Package Price: $4,528

Model	Description
M25URS9PW1BN	APX6500 ENHANCED 7/800 MHZ MID POWER MOBILE 10-35 WATT
G51	ADD: SMARTZONE OPERATION
G806	ADD: ASTRO DIGITAL CAI OPERATION
G361	ADD: P25 TRUNKING SOFTWARE
GA00805	ADD: APX O7 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G67	ADD: REMOTE MOUNT MID POWER
G335	ADD: ANT 1/4 WAVE 762-870 MHZ
W22	ADD: PALM MICROPHONE
B18	ADD: AUXILIARY SPKR 7.5 WATT
G996	ENH: OVER THE AIR PROVISIONING
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD: GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
G78	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For Dash Mount Delete G67 (Remote) and Add G66 (Dash Mount 02 WWM) Decrease the cost of the package $145.

5.5 APX 6500 ENHANCED DUAL CONTROL HEAD WITH ENCRYPTION APX

Package Price: $5,822

Model	Description	Unit Price
The following are required for dual control head option:		
M25URS9PW1BN	APX6500 ENHANCED 700/800 MHZ MID POWER MOBILE	
G806	ADD: ASTRO DIGITAL CAI OPERATION	
G51	ADD: SMARTZONE OPERATION	
G361	ADD: P25 TRUNKING SOFTWARE	
G843	ADD: AES ENCRYPTION	
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY	
GA00805	ADD: APX O7 CONTROL HEAD	
G444	ADD: CONTROL HEAD SOFTWARE	
G67	ADD: REMOTE MOUNT MID POWER	
G335	ADD: ANT 1/4 WAVE 762-870 MHZ	
W22	ADD: PALM MICROPHONE	**QUANTITY 2**
B18	ADD: AUXILIARY SPKR 7.5 WATT	**QUANTITY 2**
GA00092	ADD: DUAL-CONTROL HARDWARE	
G996	ENH: OVER THE AIR PROVISIONING	
GA09008	ADD: GROUP SERVICES	
	CONFIGURATION CONTINUED ON NEXT PAGE	

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Package Price: $5,822

Model	Description	Unit Price
GA00235	ADD: NO GPS ANTENNA NEEDED	
G78	ADD: 3 YEAR ESSENTIAL SERVICE	
Select one <u>for each</u> control head and add to price of package (QUANTITY 2):		
G618	ADD: CBL REMOTE MOUNT 10 FEET (5.1.5.1)	$6
G628	ADD: CBL REMOTE MOUNT 17 FEET (5.1.5.2)	$11
G610	ADD: CBL REMOTE MOUNT 30 FEET (5.1.5.3)	$18
G609	ADD: CBL REMOTE MOUNT 50 FEET (5.1.5.4)	$25
G607	ADD: CBL REMOTE MOUNT 75 FEET (5.1.5.5)	$33
G879	ADD: CBL REMOTE MOUNT 115 FEET (5.1.5.6)	$40

Note: DEK is not available with Dual Control Head Radio Package. You must order DEK Box Kit # H1835A separately. DEK box kit H1835A includes one DEK. Must order a kit for EACH control head that needs DEK hardware. Price is $144

Dual control head always requires remote mount.

Total # of microphones must match total # of control heads ordered. Option G90 “No Mic Needed” counts as a mic option.

Total # of speakers must match total # of control heads being ordered. Option G42 “No Speaker Needed” counts as a speaker option.

Need to order 1 control cable for EACH Control Head.

5.6 APX ENHANCED 6500 MOBILE WITH 03 CONTROL HEAD 700/800 MHZ PROJECT 25 DISGUISED HAND-HELD CONTROLLER FOR PUBLIC SAFETY AND POLICE



Figure 5-2:APX 6500 Mobile Shown 03 Control Head

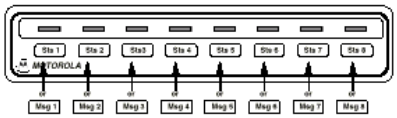
Package Price: $5,593

Model	Description
M25URS9PW1BN	APX6500 ENHANCED 7/800 MHZ MID POWER MOBILE 10-35 WATT
G806	ADD: ASTRO DIGITAL CAI OPERATION
G51	ADD: SMARTZONE OPERATION
G361	ADD: P25 TRUNKING SOFTWARE
G72	ADD: O3 HANDHELD CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
G67	ADD: REMOTE MOUNT MID POWER
G335	ADD: ANT 1/4 WAVE 762-870 MHZ
G90	NO MICROPHONE NEEDED
B18	ADD: AUXILIARY SPKR 7.5 WATT
G996	ENH: OVER THE AIR PROVISIONING
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD: GROUP SERVICES
G78	ADD: 3 YEAR ESSENTIAL SERVICE

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.7 APX 6500 ENHANCED MOBILE ACCESSORIES AND SERVICE OPTIONS

5.8 APX 6500 ACCESSORIES

Model/Option	Description	Unit price
W599	8 Status/Message (1 Supplemental Housing) Requires Remote Mount Configuration. This is part number and pricing if ordered with the radio. 	$144

5.9 APX 6500 ENHANCED MOBILE SERVICE OPTIONS

Model	Description	Unit Price
G78	ENH: 3 ESSENTIAL SERVICE Provides 3 years of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	Included in Radio Configuration
GA00318	ENH:5 YEARS ESSENTIAL SERVICE Provides 4 year of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$319
GA00249AC	ENH: 3 YR ESSENTIAL ACCIDENTAL DAMAGE Provides for extended hardware repair coverage and chemical, liquid, and other physical damage on your Motorola portable and mobile subscriber radios. Comprehensive coverage starts from the first day the radio is put into use. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$506

5.10 APX 8500 MOBILE ALL BAND RADIOS



Figure 5-3: APX8500 Mobile Radio Shown with O7 Control Head

The APX 8500 mobile radio meets P25 public safety specifications for multi-agency collaboration by offering the option to operate in three separate band configurations. APX 8500 mobiles can work across multiple digital and analog networks from conventional, to SMARTNET® and SmartZone® to ASTRO® 25 providing true P25 functionality. When multiband operation is needed, the APX8500 is capable of being programmed with any three frequency bands. Only one band can be utilized at a time.

The APX 8500 all-band mobile radio combines unlimited interoperability, secure Wi-Fi connectivity and purpose-built design, enabling ease of installation and removal. It can easily connect to the VML750 LTE vehicle modem via the micro USB interface and utilize a broadband network to create an in-vehicle ecosystem for offloading data applications in the field, increasing the safety and efficiency of public safety users in and around the vehicle.

Enhanced Frequency Spectrum Utilization

The APX 8500 mobile radio is designed to offer multiple frequency band solutions for perfect system optimization in congested urban areas or wider country regions. Motorola currently offers the 700/800 MHz dual band (764-870MHz), 10-35 watt variable power, VHF (136-174 MHZ), UHF Range 1 (380-470 MHz) and UHF Range 2 (450-520 MHz). Supports 1250 Channels.

Control Head Variety

The APX 8500 mobile is available with the O7 control head, O5 control head or the 03 handheld control head. The County recommends the O7 Control Head. In addition, the APX 8500 is available in a single, 2, 3, or 4 control head configuration.

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG. https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.11 APX 8500 MULTIBAND MOBILE WITH DEK AND ENCRYPTION

Package Price: $7,289

Model	Description
M37TSS9PW1 N	APX8500 ALL BAND MP MOBILE
G806	ENH: ASTRO DIGITAL CAI OP APX
G51	ENH: SMARTZONE OPERATION APX
G361	ADD: P25 TRUNKING SOFTWARE
GA00805	ADD: APX O7 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
B18	ADD AUXILIARY 7.5 WATT SPEAKER
G67	ADD: REMOTE MOUNT MID POWER
GA01513	ADD: ALL BAND MOBILE ANTENNA (7/8/V/U)
W22	ADD: PALM MICROPHONE
W599	ADD: 8 MODE DIRECT ENTRY
G996	ADD: PROGRAMMING OVER P25 (OTAP)
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD:GROUP SERVICES
G78	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For Dash Mount- Delete G67 Remote Mount and Add G66 (Dash Mount). Reduce the cost of the radio package by $145.

Ships with 17’ cable.

5.12 APX 8500 DELETE FREQUENCY BAND (OPTIONAL)

Include all of the options from APX8500 all band mobile and add option above. Can only delete two:

Model	Description	Unit Price
GA05507	DEL: DELETE 7/800 MHZ BAND	-$580
GA05508	DEL: DELETE VHF BAND	-$580
GA05509	DEL: DELETE UHF BAND (DELETES BOTH UHF BANDS)	-$580

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.13 APX 8500 MULTIBAND MOBILE-DUAL CONTROL HEAD WITH ENCRYPTION

Package Price: $7,667

Model	Description	Unit Price
The following are required for dual control head option:		
M37TSS9PW1 N	APX8500 ALL BAND MP MOBILE	
G806	ENH: ASTRO DIGITAL CAI OP APX	
G51	ENH: SMARTZONE OPERATION APX	
G361	ADD: P25 TRUNKING SOFTWARE	
GA00092	ADD: APX DUAL-CONTRL HD HARDWARE	
GA00805	ADD: APX O7 CONTROL HEAD	
G444	ADD: CONTROL HEAD SOFTWARE	
G843	ADD: AES ENCRYPTION	
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY	
B18	ADD AUXILIARY 7.5 WATT SPEAKER	**QUANTITY 2**
G67	ADD: REMOTE MOUNT MID POWER	
GA01513	ADD: ALL BAND MOBILE ANTENNA (7/8/V/U)	
W22	ADD: PALM MICROPHONE	**QUANTITY 2**
G996	ADD: PROGRAMMING OVER P25 (OTAP)	
GA00235	ADD: NO GPS ANTENNA NEEDED	
GA09008	ADD:GROUP SERVICES	
G78	ADD: 3 YEAR ESSENTIAL SERVICE	
Select one <u>for each</u> control head and add to price of package (QUANTITY 2):		
G618	ADD: CBL REMOTE MOUNT 10 FEET (5.1.5.1)	$6
G628	ADD: CBL REMOTE MOUNT 17 FEET (5.1.5.2)	$11
G610	ADD: CBL REMOTE MOUNT 30 FEET (5.1.5.3)	$18
G609	ADD: CBL REMOTE MOUNT 50 FEET (5.1.5.4)	$25
G607	ADD: CBL REMOTE MOUNT 75 FEET (5.1.5.5)	$33
G879	ADD: CBL REMOTE MOUNT 115 FEET (5.1.5.6)	$40

Note: DEK is not available with Dual Control Head Radio Package. You must order DEK Box Kit # H1835A separately. DEK box kit H1835A includes one DEK. Must order a kit for EACH control head that needs DEK hardware. Price is $144

Dual control head always requires remote mount.

Total # of microphones must match total # of control heads ordered. Option G90 “No Mic Needed” counts as a mic option.

Total # of speakers must match total # of control heads being ordered. Option G42 “No Speaker Needed” counts as a speaker option.

Need to order 1 control cable for EACH Control Head.

APX8500 can support up to four control heads.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.14 APX 8500 DELETE FREQUENCY BAND (OPTIONAL)

Include all of the options from APX8500 all band mobile and add option on previous page. Can only delete two:

Model	Description	Unit Price
GA05507	DEL: DELETE 7/800 MHZ BAND	-($580)
GA05508	DEL: DELETE VHF BAND	-($580)
GA05509	DEL: DELETE UHF BAND (DELETES BOTH UHF BANDS)	-($580)

5.15 APX 8500 MOBILE WITH 03 CONTROL HEAD OPTION 700/800 MHZ PROJECT 25 DISGUISED HAND-HELD CONTROLLER FOR PUBLIC SAFETY AND POLICE



Figure 5-4:APX 8500 Mobile Shown with 03 Control Head

5.16 APX 8500 MOBILE ALL BAND RADIO WITH 03 CONTROL HEAD AND ENCRYPTION

Package Price: $7,386

Model	Description
M37TSS9PW1 N	APX8500 ALL BAND MP MOBILE
G806	ENH: ASTRO DIGITAL CAI OP APX
G51	ENH: SMARTZONE OPERATION APX
G361	ADD: P25 TRUNKING SOFTWARE
G72	ADD: APX O3 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
B18	ADD AUXILIARY 7.5 WATT SPEAKER
G67	ADD: REMOTE MOUNT MID POWER
GA01513	ADD: ALL BAND MOBILE ANTENNA (7/8/V/U)
W90	ADD: NO MICROPHONE
G996	ADD: PROGRAMMING OVER P25 (OTAP)
GA00235	ADD: NO GPS ANTENNA NEEDED
G78	ADD: 3 YEAR ESSENTIAL SERVICE
GA09008	ADD:GROUP SERVICES
	NOTES FOR THIS RADIO ON NEXT PAGE

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Note: For Dash Mount- Delete G67 Remote Mount and Add G66 (Dash Mount). Reduce the cost of the radio package by $145.

Ships with 17’ cable.

5.17 APX 8500 DELETE FREQUENCY BAND (OPTIONAL)

Include all of the options from APX8500 all band mobile on previous page. Can only delete two:

Model	Description	Unit Price
GA05507	DEL: DELETE 7/800 MHZ BAND	-($580)
GA05508	DEL: DELETE VHF BAND	-($580)
GA05509	DEL: DELETE UHF BAND (DELETES BOTH UHF BANDS)	-($580)

5.18 APX 8500 SERVICE OPTIONS

Model	Description	Unit Price
G78	ENH: 3 ESSENTIAL SERVICE Provides 3 years of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	Included in Radio Configuration
GA00318	ENH:5 YEARS ESSENTIAL SERVICE Provides 4 year of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$319
GA00255AF	ENH: 3 YR ESSENTIAL ACCIDENTAL DAMAGE Provides for extended hardware repair coverage and chemical, liquid, and other physical damage on your Motorola portable and mobile subscriber radios. Comprehensive coverage starts from the first day the radio is put into use. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$506

5.19 APX 4500 MOBILE RADIO



Figure 5-5: APX 4500 Mobile Radio with O2 Control Head

APX 4500 P25 mobile radio delivers all the benefits of TDMA technology in a compact P25 capable mobile. The APX 4500 seamlessly unifies public works, utility, rural public safety and transportation users to first responders. The APX 4500 is conveniently small and easy to install. A simplified dash mount design makes installation quick and easy, fitting into the existing XTL™ footprint so you can reuse mounting holes and cables. The APX 4500 come standard with 512 programmable channels, intelligent lighting, day/night mode, built in 7.5 watt speaker and emergency button. The APX 4500 has evolved to support newer technologies like Wi-Fi. Direct cloning with Legacy models will not be available.

Control Head Variety

The APX 4500 mobile is available with a ruggedized O2 Control Head. Available colors are Black or Impact Green. Supports 512 channels.

Motorcycle Configuration

The APX 4500 is not available in a motorcycle configuration.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.20 APX4500 MOBILE RADIO WITH ENCRYPTION

Package Price: $4,091

Model	Description
M22URS9PW1 BN	APX4500 7/800
QA02756	ADD: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM
G843	ADD: AES ENCRYPTION
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
GA00804	ADD: APX O2 CONTROL HEAD
G444	ADD: APX CONTROL HEAD SOFTWARE
G66	ADD: DASH MOUNT
G335	ADD: ANT 1/4 WAVE 762-870MHZ
W22	ADD: PALM MICROPHONE
B18	ADD AUXILIARY 7.5 WATT SPEAKER
G996	ADD: PROGRAMMING OVER P25 (OTAP)
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD: GROUP SERVICES
G24	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For Remote Mount Delete G66 (Dash Mount) and Add G67 (Remote Mount 02 WWM) Increase the cost of the package $145.

5.21 APX 4500 MOBILE RADIO NO ENCRYPTION

Package Price: $3,210

Model	Description
M22URS9PW1 BN	APX4500 7/800
QA02756	ADD: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM
GA00804	ADD: APX O2 CONTROL HEAD
G444	ADD: APX CONTROL HEAD SOFTWARE
G66	ADD: DASH MOUNT
G335	ADD: ANT 1/4 WAVE 762-870MHZ
W22	ADD: PALM MICROPHONE
B18	ADD AUXILIARY 7.5 WATT SPEAKER
G996	ADD: PROGRAMMING OVER P25 (OTAP)
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD: GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
G24	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For Remote Mount Delete G66 (Dash Mount) and Add G67
Remote Mount 02 WWM) Increase the cost of the package $145.

For horn and lights external alarm on Call Alert, order Horn Honk Relay part #W116 ($60) For either horn **OR** lights. Not Both), External Alarm Relay part #HLN6969 ($51) and Cable part#HKN4258 ($52).

5.22 APX 4500 SERVICE OPTIONS

Model	Description	Unit Price
G24	ENH: 3 YRS ESSENTIAL SERVICE Provides 3 years of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	Included in Radio Configuration
GA00318	ENH: 5 YRS ESSENTIAL SERVICE Provides 5 years of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$246
GA00249AC	ADD: 3Y ESSENTIAL ACCIDENTAL DAMAGE Provides for extended hardware repair coverage and chemical, liquid, and other physical damage on your Motorola portable and mobile subscriber radios. Comprehensive coverage starts from the first day the radio is put into use. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$275

RADIO PACKAGES NOT LISTED IN PRICE BOOK ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG.
HTTPS://SHOP.MOTOROLASOLUTIONS.COM/?_GA=2.209673489.265811969.1588006669-1558378512.1587576280

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.23 APX 6500 ENHANCED HOT RED RECEIVER MOBILE RADIO

Package Price for both Red and Green Mobiles: $11,851

Model	Description- Hot Red Mobile (Green Radio)
M25URS9PW1BN	APX6500 ENHANCED 700/800 MHZ MID POWER MOBILE 10-35 WATT
G51	ADD: SMARTZONE OPERATION
G806	ADD: ASTRO DIGITAL CAI OPERATION
GA00805	ADD: APX 07 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
G361	ADD:P25 TRUNKING
G67	ADD: REMOTE MOUNT MID POWER
G335	ADD: ANT 1/4 WAVE 762-870 MHZ
W22	ADD: PALM MICROPHONE
B18	ADD: AUXILIARY SPKR 7.5 WATT
W599	ADD: 8 MODE DIRECT ENTRY
GA001115	ADD: DUAL RADIO STACKABLE MID POWER TRUNNION
GA01113AA	ENH: DUAL RADIO OPERATION (PRIMARY RADIO)
G996	ADD: PROGRAMMING OVER P25 (OTAP)
GA00235	ADD: NO GPS ANTENNA NEEDED
GA09008	ADD:GROUP SERVICES
G24	ADD: 3 YEAR ESSENTIAL SERVICE
	GREEN RADIO PRICE $6,264
Model	**Description- Hot Red Mobile (Red Radio)**
M25URS9PW1 BN	APX6500 ENHANCED 700/800 MHZ MID POWER MOBILE 10-35 WATT
G51	ADD: SMARTZONE OPERATION
G806	ADD: ASTRO DIGITAL CAI OPERATION
G361	ADD:P25 TRUNKING
G88	ADD: NO CONTROL HEAD NEEDED
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G67	ADD: REMOTE MOUNT MID POWER
G335	ADD: ANT 1/4 WAVE 762-870 MHZ
G90	ADD: NO MICROPHONE NEEDED
B18	ADD: AUXILIARY SPKR 7.5 WATT
G996	ADD: PROGRAMMING OVER P25 (OTAP)
GA01117AA	ENH: DUAL RADIO OPERATION (SECONDARY RADIO)
GA00235	ADD: NO GPS ANTENNA NEEDED
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
GA09008	ADD:GROUP SERVICES
G24	ADD: 3 YEAR ESSENTIAL SERVICE
	RED RADIO PRICE $5,587

NOTE: Hot Red Radio packages come with two antennas. For service plan options refer to APX6500 Service Plan Section. Will need to add plan to both green and red radios separately.

5.24 APX 6500 ENHANCED HOT RED RECEIVER MOTORCYCLE RADIO

Package Price for both Red and Green Motorcycle Mobiles: $13,096

Model	Description- Hot Red Motorcycle (Green Radio)
M25URS9PW1BN	APX6500 ENHANCED 700/800 MHZ MID POWER MOBILE 10-35 WATT
G806	ENH: ASTRO DIGITAL CAI OP APX
G51	ENH: SMARTZONE OPERATION APX
G361	ADD: P25 TRUNKING SOFTWARE
GA09008	ADD:GROUP SERVICES
G996	ADD: PROGRAMMING OVER P25 (OTAP)
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
G843	ADD: AES ENCRYPTION
GA00805	ADD: APX O7 CONTROL HEAD.
G444	ADD: APX CONTROL HEAD SOFTWARE
G67	ADD: REMOTE MOUNT MID POWER
G174	ADD: ADD 700/800 ANTENNA
W22	ADD: MOTORCYCLE HAND MICROPHONE
B18	ADD: AUXILARY SPKR 7.5 WATT
GA01606AA	ADD: NO GPS/WIFI ANTENNA NEEDED
GA01517	DEL: NO J600 ADAPTER CABLE NEEDED
GA001115	ADD: DUAL RADIO STACKABLE MID POWER TRUNNION
G138	ADD: APX MOTORCYCLE CH SFWR
W620	ADD: NO MTRCYCLE ENCL NEEDED APX
GA01116	ADD: DUAL RADIO AUDIO COMBINER
GA01113AA	ENH: DUAL RADIO OPERATION (PRIMARY RADIO)
G78	ADD: 3 YEAR ESSENTIAL SERVICE
	GREEN RADIO PRICE $7,099
Model	**Description- Hot Red Motorcycle (Red Radio)**
M25URS9PW1BN	APX6500 ENHANCED 700/800 MHZ MID POWER MOBILE 10-35 WATT
G806	ENH: ASTRO DIGITAL CAI OP APX
G51	ENH: SMARTZONE OPERATION APX
G361	ADD: P25 TRUNKING SOFTWARE
GA09008	ADD:GROUP SERVICES
G996	ADD: PROGRAMMING OVER P25 (OTAP)
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
G843	ADD: AES ENCRYPTION
G88	ADD: NO CONTROL HEAD NEEDED
G444	ADD: APX CONTROL HEAD SOFTWARE
G67	ADD: REMOTE MOUNT MID POWER
G174	ADD: ADD 700/800 ANTENNA
G90	ADD: NO MICROPHONE NEEDED
G142	ADD: NO SPEAKER NEEDED
GA01606AA	ADD: NO GPS/WIFI ANTENNA NEEDED
GA01517	DEL: NO J600 ADAPTER CABLE NEEDED
GA001117	ADD: DUAL RADIO OPERATION (SECONDARY RADIO)
	CONFIGURATION CONTINUED ON NEXT PAGE

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Package Price for both Red and Green Motorcycle Mobiles: $13,096

Model	Description- Hot Red Motorcycle (Green Radio)
G138	ADD: APX MOTORCYCLE CH SFWR
W620	ADD: NO MTRCYCLE ENCL NEEDED APX
G78	ADD: 3 YEAR ESSENTIAL SERVICE
	RED RADIO PRICE $5,997
Model	**Description- Hot Red Mobile Additional Parts**
H1835A	8 MODE DIRECT ENTRY
NNTN7279B	CONTROL HEAD SUN SHADE/HOOD

NOTE: Hot Red Radio packages come with two antennas.

For service plan options refer to APX6500 Service Plan Section. Will need to add plan to both green and red radios separately.

RADIO PACKAGES NOT LISTED IN PRICE BOOK ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 “ADDITIONAL DISCOUNTS” SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG. ***HTTPS://SHOP.MOTOROLASOLUTIONS.COM/?_GA=2.209673489.265811969.1588006669-1558378512.1587576280***

5.25 MOBILE CONTROL HEAD CONVERSION KITS

Kits to Convert Your Existing Control Head from Dash Mount to Remote Mount, or Remote Mount to Dash Mount

- Kits that convert a Dash Mount Control Head to a Remote Mount configurations require selecting a CAN cable option selection from below (excluding O3 CH, which does not use a CAN cable).
- Kits that change Remote to Dash take no options.

5.26 O2 CONVERSION KITS

Model	Description	Unit Price
H1879	O2 REMOTE TO O2 DASH MOUNT -Not Applicable APX8500	$127
H1877	O2 DASH TO O2 REMOTE MOUNT-Not Applicable APX8500	$260

5.27 O3 CONTROL HEAD CONVERSION REQUIREMENTS

In order to take an O3 Control Head from a Dash Mount to a Remote Mount, a single cable, PMLN4959, is required.

Model	Description	Unit Price
PMLN4959A	O3 ACCESSORY CABLE-Required to convert an O3 Control Head from Dash Mount to Remote Mount	$119

5.28 O7 CONTROL HEAD CONVERSION KITS

Model	Description	Unit Price
H1880	O7 REMOTE TO O7 DASH MOUNT	$127
H1878	O7 DASH TO O7 REMOTE MOUNT	$260
H1925	8500 O7 REMOTE MOUNT TO DASH MOUNT	$128
H1922	8500 O7 REMOTE MOUNT TO DASH MOUNT	$260

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

5.29 O3 AND O7 CONTROL HEADS (NO RADIO)

Dash mounts require one option be requested from each category below (4).

Description
Power Cable
Accessory Cable
Microphone
Speaker

Remote mounts require one option be requested from each category below (6).

Description
Power Cable
Accessory Cable
Microphone
Speaker
Transceiver Interface Board (TIB)
CAN Cable

5.30 O3 AND O7 CONTROL HEAD ORDERING INSTRUCTIONS

Model	Description	Unit Price
CONTROL HEAD TYPE	**MUST SELECT ONE OF THE FOLLOWING:**	
H1905	O7 CONTROL HEAD	$506
H1902	O3 CONTROL HEAD	$757
O3 MOUNT TYPE	**MUST SELECT ONE OF THE FOLLOWING FOR O3:**	
GA01284	ADD:O3 DASH OR NO MOUNT	$0
GA01300	ADD: O3 REMOTE MOUNT	$100
O7 MOUNT TYPE	**MUST SELECT ONE OF THE FOLLOWING FOR O7:**	
GA01286	ADD: O7 DASH MOUNT	$100
GA01278	ADD: O7 REMOTE CONTROL HEAD INTERFACE BOARD	$100
GA01585	ADD: APX8500 O7 DASH MOUNT	$128
POWER CABLE	**MUST SELECT ONE OF THE FOLLOWING FOR O3 & O7:**	
GA01301	ADD: NO POWER CABLE	$0
GA01288	ADD: POWER CABLE RADIO DASH	$12
GA01289	ADD: POWER CABLE RADIO REMOTE	$28
ACCESSORY CABLE	**MUST SELECT ONE OF THE FOLLOWING FOR O3 & O7:**	
GA01297	ADD:NO ACCESSORY CABLE	$0
GA01295	ADD: O3 ACCESSORY CABLE	$72
GA01296	ADD: ACCESSORY CABLE	$24
MICROPHONE	**MUST SELECT ONE OF THE FOLLOWING O3 & O7:**	
G90	ADD: NO MICROPHONE NEEDED	$0
W20	ADD: KEYPAD MIC GCAI	$144
	ORDERING INSTRUCTIONS CONTINUED ON NEXT PAGE	
W22	ADD: STANDARD PALM MICROPHONE	$58

Model	Description	Unit Price
SPEAKER	**MUST SELECT ONE OF THE FOLLOWING O3 & O7:**	
B18	ADD: AUXILARY SPEAKER 7.5 WATT	$48
G142	ADD: NO SPEAKER NEEDED	$0
TRANCEIVER INTERFACE BOARD (TIB) OPTIONS	**Only required when Remote Mount Option is selected, or if an O3 Control Head is being Ordered . If the radio is currently configured for Remote Mount, Select GA01282, No TIB.**	
GA01282	ADD: NO REMOTE TIB	$0
GA01281	ADD: APX MP REMOTE TIB	$140
GA01586	ADD: 8500 MP TIB	$140
CAN CABLE	**Only required when Remote Mount option is selected. Not applicable to an O3 Control Head. Must Select One.**	
GA00179	ADD: NO REMOTE CABLE NEEDED	$0
G618	ADD: REMOTE MOUNT CABLE 10 FT	$8
G628	ADD: REMOTE MOUNT CABLE 17 FT	$12
G610	ADD: REMOTE MOUNT CABLE 30 FT	$20

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

SECTION 6

EXHIBIT A: PORTABLE RADIOS



A.

Figure 6-1: Portable Radio

APX 6000 Model 3.5 with Full Keypad

The APX™ 6000 is the next generation of ruggedly reliable performers that gives you the advanced features. Whether you're responding to a call or racing to a fire, the APX™ 6000 puts you in greater control of your safety, response time and technology investment. Portables can work across multiple digital and analog networks from conventional, to SMARTNET® and SmartZone® to ASTRO® 25 providing true P25 functionality.

6.1 APX 6000 FEATURES

Model 3.5

The APX 6000 Model 3.5 offers 1,000 Channel Programmability, Front Color Display: 4 lines of text, 2 lines of icon, Full Keypad: 4x3 programmable button, 4 way navigation, home and data buttons, Dual Microphone, Intelligent Lighting, 3 Programmable Side buttons, Noise Cancellation Software, 1 Top Mounted Programmable 3 Position Toggle Switch, Top Display: 1 line of text, 1 line of icons, 0 lines of menu, Orange Programmable Button, 16 Position Mode Rotary Select Switch and a Universal Carry Holder.

Model 2.5

The APX 6000 Model 2.5 offers 1,000 Channel Programmability, Front Color Display: 4 lines of text, 2 lines of icon, Limited Keypad: 4 way navigation, home and data buttons, Dual Microphone, Intelligent Lighting, 3 Programmable Side buttons, Noise Cancellation Software, 1 Top Mounted Programmable 3 Position Toggle Switch, Top Display: 1 line of text, 1 line of icons, 0 lines of menu, Orange Programmable Button, 16 Position Mode Rotary Select Switch

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9.

6.2 APX 6000 PORTABLE RADIO MODEL 3.5-WITH ENCRYPTION AND HIGH CAPACITY BATTERY

Package Price: $5,279

Model	Description
H98UCH9PW7BN	APX6000 700/800 MODEL 3.5 PORTABLE
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
Q629	ADD: AES ENCRYPTION
Q498	ENH: ASTRO25 OTAR W/MULTIKEY
QA01833	ADD: EXTREME 1-SIDED NOISE REDUCTION
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA07576	ALT: LI-ION 4600MAH IMPRES UL BATT (PMMN4573A) 5.12”(H) 2.3” (W) 1.7”(D)
QA09008	ADD: GROUP SERVICES
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For smaller sized battery with less capacity please order # QA07578 3100 mAh IMPRES 3.4”(H) 2.3”(L) 1.8” (D)and remove #QA07576. Deduct $21.75 from package price.

Radios will ship intrinsically safe when ordered with an IS battery.

6.3 APX 6000 PORTABLE MODEL 3.5 WITH HIGH CAPACITY BATTERY - NO ENCRYPTION

Package Price: $4,389

Model	Description
H98UCH9PW7BN	APX6000 700/800 MODEL 3.5 PORTABLE
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
QA01833	ADD: EXTREME 1-SIDED NOISE REDUCTION
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA07576	ALT: LI-ION 4600MAH IMPRES UL BATT (PMMN4573A) 5.12”(H) 2.3” (W) 1.7”(D)
QA09008	ADD: GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For smaller sized battery with less capacity please order # QA07578 3100 mAh IMPRES 3.4”(H) 2.3”(L) 1.8” (D)and remove #QA07576. Deduct $21.75 from package price.

Radios will ship intrinsically safe when ordered with an IS battery.

Portable radios do not come with chargers.

6.4 APX 6000 PORTABLE MODEL 2.5 WITH ENCRYPTION AND HIGH CAPACITY BATTERY

Package Price: $4,959

Model	Description
H98UCF9PW6BN	APX6000 700/800 MODEL 2.5 PORTABLE
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
Q629	ADD: AES ENCRYPTION
Q498	ENH: ASTRO 25 OTAR W/ MULTIKEY
QA01833	ADD: EXTREME 1-SIDED NOISE REDUCTION
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA07576	ALT: LI-ION 4600MAH IMPRES UL BATT (PMMN4573A) 5.12”(H) 2.3” (W) 1.7”(D)
QA09008	ADD: GROUP SERVICES
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For smaller sized battery with less capacity please order # QA07578 3100 mAh IMPRES 3.4”(H) 2.3”(L) 1.8” (D)and and remove #QA07576. Deduct $21.75 from package price.

Radios will ship intrinsically safe when ordered with an IS battery.

6.5 APX 6000 PORTABLE MODEL 2.5 WITH HIGH CAPACITY BATTERY - NO ENCRYPTION

Package Price: $4,078

Model	Description
H98UCF9PW6BN	APX6000 700/800 MODEL 2.5 PORTABLE
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
QA01833	ADD: EXTREME 1-SIDED NOISE REDUCTION
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA07576	ALT: LI-ION 4600MAH IMPRES UL BATT (PMMN4573A) 1.5”(H) 5” (L) 2”(W)
QA09008	ADD: GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For smaller sized battery with less capacity please order # QA07578 3100 mAh IMPRES 3.4”(H) 2.3”(L) 1.8” (D) and remove #QA07576. Deduct $21.75 from package price.

Radios will ship intrinsically safe when ordered with an IS battery.

Portable radios do not come with chargers.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

6.6 APX 6000 SPARE BATTERIES

Model	Description	Unit Price
PMMN4573A	LI-ION 4600MAH IMPRES UL BATT (QA07576) 1.5”(H) 5” (L) 2”(W)	$159
PMMN4547	LI-ION 3100MAH UL BATT (QA07578) 3.4”(H) 2.3”(L) 1.8” (D)	$135

FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER TO ACCESSORIES CATALOG.ACCESSORIES NOT LISTED ARE 20% OFF LIST PRICE.
https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

6.7 APX 6000XE PORTABLE RADIOS



A. B.

Figure 6-2 (A) APX 6000XE Model 2.5 (Yellow) and (B) Model 3.5 (Impact Green)

(Lower capacity battery pictured)

APX 6000XE meets P25 public safety specifications for seamless multi-agency collaboration. Extreme rugged and ergonomic design with innovative features developed specifically to enhance personnel safety in extreme environments. Portables can work across multiple digital and analog networks from conventional, to SMARTNET® and SmartZone® to ASTRO® 25 providing true P25 functionality.

The APX 6000 XE offers 1000 Channel Programmability. This radio ships standard as a RUGGED (Delta T submersion-2 meters/2 hours) portable and with UL certification. Also includes Front Color Display: 4 lines of text, 2 lines of icon, Top Display: 1 line of test, 1 line icons, 0 menu lines, Noise Cancellation Software, Dual Microphone, Intelligent Lighting, 3 Programmable Side buttons, 16 Position Mode Rotary Select Switch, ADP Privacy, Oversized Volume, Channel Selector and Emergency Buttons for ease of use when wearing bulky gloves. 1000 channels are included in the following radio packages.

6.8 APX 6000XE PORTABLE RADIO MODEL 3.5 WITH ENCRYPTION

Package Price: $5,687

Model	Description
H98UCH9PW7BN	APX6000 700/800 MODEL 3.5 PORTABLE
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
Q629	ADD: AES ENCRYPTION
Q498	ENH: ASTRO 25 OTAR W/ MULTIKEY
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA02006	ENH: APX6000XE RUGGED RADIO This Option includes the XE (extreme) control top with larger knobs and a display. The carry cases are different for this radio so be sure to choose the right APX6000XE case if you do not want to use the plastic carry holder that ships std with the Model II and model III radios. This option will also pull in a UL battery (PMNN4547) and will include radio UL certification. The QA02006 option includes Delta-T standard. The QA02006 option also includes H499 rugged. This radio is submersible for up to 2 meters for 2 hours when ordered in this configuration with the PMMN4547 battery.
QA09008	ADD: GROUP SERVICES
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

Note: The APX 6000XE ships with an IMPRES PMNN4547 3100 mAh Li-ION UL which is both UL certified and ruggedized PLUS (submersible for 2 meters/2 hours). Dimensions 3.4”(H) 2.3”(L) 1.8” (D)

If alternate battery is selected the radio will not ship with ruggedized PLUS (submersible for 2 meters/2 hours).

Portable radios do not come with chargers.

6.9 APX 6000XE 3.5 WITH ENCRYPTION AND YELLOW HOUSING

Include all of the options in section above and add option below:

Model	Description	Unit Price
H64	ALT: PUBLIC SAFETY YELLOW	$20

6.10 APX 6000XE 3.5 WITH ENCRYPTION AND GREEN HOUSING

Include all of the options in section above and add option below:

Model	Description	Unit Price
QA01427	ALT: HIGH IMPACT GREEN	$20

6.11 APX 6000XE PORTABLE RADIO MODEL 2.5 WITH ENCRYPTION

Package Price: $5,376

Model	Description
H98UCF9PW6BN	APX6000 700/800 MODEL 2.5 PORTABLE
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
Q629	ADD: AES ENCRYPTION
H498	ENH: ASTRO 25 OTAR W/ MULTIKEY
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA02006	ENH: APX6000XE RUGGED RADIO This Option includes the XE (extreme) control top with larger knobs and a display. The carry cases are different for this radio so be sure to choose the right APX6000XE case if you do not want to use the plastic carry holder that ships std with the Model II and model III radios. This option will also pull in a UL battery (PMNN4547) and will include radio UL certification. The QA02006 option includes Delta-T standard. The QA02006 option also includes H499 rugged. This radio is submersible for up to 2 meters for 2 hours when ordered in this configuration with the PMMN4547 battery.
QA09008	ADD: GROUP SERVICES
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

Note: The APX 6000XE ships with an IMPRES PMNN4547 3100 mAh Li-ION UL which is both UL certified and ruggedized PLUS (submersible for 2 meters/2 hours). Dimensions 3.4”(H) 2.3”(L) 1.8” (D)

If alternate battery is selected the radio will not ship with ruggedized PLUS (submersible for 2 meters/2 hours).

Portable radios do not come with chargers.

6.12 APX 6000XE 2.5 WITH ENCRYPTION AND YELLOW HOUSING

Include all of the options in section above and add option below:

Model	Description	Unit Price
H64	ALT: PUBLIC SAFETY YELLOW	$20

6.13 APX 6000XE 2.5 WITH ENCRYPTION AND GREEN HOUSING

Include all of the options in section above and add option below:

Model	Description	Unit Price
QA01427	ALT: HIGH IMPACT GREEN	$20

6.14 APX 6000XE SPARE BATTERY

Model	Description	Unit Price
PMNN4547	IMPRES PMNN4547 3100 MAH LI-ION Dimensions 3.4”(H) 2.3”(L) 1.8” (D)	$135

6.15 APX 6000 AND APX 6000XE SERVICE OPTIONS

Model	Description	Unit Price
G24	ENH: 3 YRS ESSENTIAL SERVICE Provides 3 years of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	Included in Radio Configuration
Q887	ENH: 5 YRS ESSENTIAL SERVICE Provides 5 years of extended hardware repair coverage beginning after the standard warranty period expires. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$206
HA00022AC	ADD: 3Y ESSENTIAL ACCIDENTAL DAMAGE Provides for extended hardware repair coverage and chemical, liquid, and other physical damage on your Motorola portable and mobile subscriber radios. Comprehensive coverage starts from the first day the radio is put into use. Repairs will be made only at the designated Motorola repair depot. Local services are not included. Motorola will pay the inbound shipping charges only with use of the Motorola designated delivery service. Motorola will pay for outbound shipping via Motorola's normal shipping methods. No discounts are allowed on this option.	$284

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG. HTTPS://SHOP.MOTOROLASOLUTIONS.COM/?_GA=2.209673489.265811969.1588006669-1558378512.1587576280

6.16 APX 8000 RADIO DESCRIPTION



Figure 6-3: APX 8000

6.17 APX 8000 PORTABLE RADIOS DESCRIPTION

The APX 8000 is redefining mission critical communications by delivering an ultra-durable radio that includes unlimited interoperability, GPS, Mission Critical Bluetooth, Adaptive Audio, and secure WiFi connectivity. With a 4-in-1 radio, you now have the ability to stay connected and expand voice and data communications across multiple agencies with one device. Improve response time by instantly operating on digital or analog networks,in 7/800, VHF, UHF Range 1 and 2 bands at any given time.

6.18 APX 8000 FEATURES

The APX 8000 includes Top Display, Noise Cancellation Software, Dual Microphone, Intelligent Lighting, 3 Programmable Side buttons, 16 Position Mode Rotary Select Switch, ADP Privacy, Oversized Volume, Channel Selector and Emergency Buttons for ease of use when wearing bulky gloves. 3000 channels are included in the following radio package.

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9.

6.19 APX 8000 MODEL 3.5 ALL BAND PORTABLE WITH ENCRYPTION

Package Price: $7,270

Model	Description
H91TGD9PW7 N	APX 8000 MODEL 3.5 ALL BAND PORTABLE MODEL 3.5
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
Q629	ADD: AES ENCRYPTION
Q498	ENH: ASTRO 25 OTAR W/ MULTIKEY
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA09008	ADD: GROUP SERVICES
QA05595	ALT: BATT IMPRES LI-ION UL 4850 MAH (PMNN4505) 5.0”(H)2.0”(L)1.5”(D)
Q58	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For smaller sized battery with less capacity please order #QA07571 3400 mAh IMPRES 3.38”(H) 2.25”(L) 1.8” 1.63”(D)and deduct $22.40 from package price.

Model 2.5 Also Available-Contact Motorola Account Manager for pricing.

Portable radios do not come with chargers.

6.20 APX 8000 MODEL 3.5 ALL BAND PORTABLE–NO ENCRYPTION

Package Price: $6,552

Model	Description
The following selection is mandatory	
H91TGD9PW7 N	APX8000 MODEL 3.5 DIGITAL PORTABLE
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA09008	ADD: GROUP SERVICES
QA05595	ALT: BATT IMPRES LI-ION UL 4850 MAH (PMNN4505) 5.0”(H)2.0”(L)1.5”(D)
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
Q58	ADD: 3 YEAR ESSENTIAL SERVICE

Note: For smaller sized battery with less capacity please order #QA07571 3400 mAh IMPRES 3.38”(H) 2.25”(L) 1.8” 1.63”(D)and deduct $22.40 from package price.

Model 2.5 Also Available- Contact Motorola Account Manager for Pricing

Portable radios do not come with chargers.

6.21 APX 8000 3.5 ADDITIONAL OPTIONS

Include all of the optionsfrom desired configuration on previous page and add option/s below:

Model	Description	Unit Price
Q52	ADD: FRONT PANEL PROGRAMMING (FPP)	$109
QA04526	ADD: RFID KNOB ADD-RFP KNOB APX6000	$18

6.22 APX 8000 3.5 DELETE FREQUENCY BAND (OPTIONAL)

Include all of the options from desired configuration on previous page and add option/s below (Can only delete two):

Model	Description	Unit Price
QA05507	DEL: DELETE 7/800 MHZ BAND	-($580)
QA05508	DEL: DELETE VHF BAND	-($580)
QA05509	DEL: DELETE UHF BAND (DELETES BOTH UHF BANDS)	-($580)

6.23 APX 8000 SPARE BATTERIES

Model	Description	Unit Price
PMMN4504	BATT IMPRES LI-ON UL 3400 MAH 3.38”(H) 2.25”(L) 1.8” 1.63”(D)	$140
PMMN4505	BATT IMPRES LI-ION UL 4850 MAH (QA05595) 5.0”(H)2.0”(L)1.5”(D)	$160

FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER TO ACCESSORIES CATALOG.ACCESSORIES NOT LISTED ARE 20% OFF LIST PRICE.
https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

6.24 APX 8000XE RUGGEDIZED RADIO DESCRIPTION



Figure 6-4: APX 8000XE with Yellow Housing

6.25 APX 8000XE PORTABLE RADIOS DESCRIPTION

The APX 8000XE is redefining mission critical communications by delivering an ultra-durable radio that combines unlimited interoperability, loud audio, and secure WiFi connectivity. With a 4-in-1 radio, you now have the ability to stay connected and expand voice and data communications across multiple agencies with one device. Improve response time by instantly operating on digital or analog networks,in 7/800, VHF, UHF Range 1 and 2 bands at any given time.

6.26 APX 8000XE FEATURES

The APX 8000XE ships standard as a RUGGED (Delta T submersion-2 meters/2 hours) portable and with UL certification. Also includes Top Display: 1 line of test, 1 line icons, 0 menu lines, Noise Cancellation Software, Dual Microphone, Intelligent Lighting, 3 Programmable Side buttons, 16 Position Mode Rotary Select Switch, ADP Privacy, Oversized Volume, Channel Selector and Emergency Buttons for ease of use when wearing bulky gloves. 3000 channels are included in the following radio package.

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9.

6.27 APX 8000XE MODEL 3.5 RUGGEDIZED ALL BAND PORTABLE WITH ENCRYPTION

Package Price: $7,853

Model	Description
The following selection is mandatory	
H91TGD9PW7 N	APX8000XE DIGITAL PORTABLE
QA02006	ENH: APX8000XE RUGGED RADIO
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
Q629	ADD: AES ENCRYPTION
Q498	ENH: ASTRO 25 OTAR W/ MULTIKEY
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA09008	ADD: GROUP SERVICES
Q58	ADD: 3 YEAR ESSENTIAL SERVICE

Note: The APX 8000XE ships with an IMPRES 3400 mAh Li-ION UL battery (PMNN4504) which is both UL certified and ruggedized PLUS (submersible for 2 meters/2 hours). Dimensions 3.38”(H)2.25”(L)1.63”(W) Model 2.5 Also Available-Contact Motorola Account Manager for pricing.

Portable radios do not come with chargers.
The antenna length for this radio is 8.66"

6.28 APX 8000XE MODEL 3.5 RUGGEDIZED DUAL BAND PORTABLE–NO ENCRYPTION

Package Price: $6,972

Model	Description
H91TGD9PW7 N	APX8000XE DIGITAL PORTABLE
QA02006	ENH: APX8000XE RUGGED RADIO
Q806	ADD: ASTRO DIGITAL CAI OPERATION
H38	ADD: SMARTZONE OPERATION
Q361	ADD: P25 TRUNKING SOFTWARE
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA09008	ADD: GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
Q58	ADD: 3 YEAR ESSENTIAL SERVICE

Note: The APX 8000XE ships with an IMPRES 3400 mAh Li-ION UL battery (PMNN4504) which is both UL certified and ruggedized PLUS (submersible for 2 meters/2 hours). Dimensions 3.38”(H)2.25”(L)1.63”(W) Model 2.5 Also Available-Contact Motorola Account Manager for pricing.

Portable radios do not come with chargers.
The antenna length for this radio is 8.66

6.29 APX 8000XE 3.5 ADDITIONAL OPTIONS

Include all of the options in section on previous page and add option below:

Model	Description	Unit Price
Q52	ADD: FRONT PANEL PROGRAMMING (FPP)	$108
QA04526	ADD: RFID KNOB	$18

6.30 APX 8000XE 3.5 DELETE FREQUENCY BAND (OPTIONAL)

Include all of the options in section on previous page and add option below (Can only delete two):

Model	Description	Unit Price
QA05507	DEL: DELETE 7/800 MHZ BAND	-($580)
QA05508	DEL: DELETE VHF BAND	-($580)
QA05509	DEL: DELETE UHF BAND (DELETES BOTH UHF BANDS)	-($580)

6.31 APX 8000XE YELLOW HOUSING (OPTIONAL)

Include all of the options from APX8000XE configuration and add option below:

Model	Description	Unit Price
H64	ALT: PUBLIC SAFETY YELLOW	$20

6.32 APX 8000XE 2.5 GREEN HOUSING (OPTIONAL)

Include all of the options from APX8000XE configuration and add option below:

Model	Description	Unit Price
QA01427	ALT: HIGH IMPACT GREEN	$20

6.33 APX 8000XE SPARE BATTERY

Model	Description	Unit Price
PMNN4504	BATT IMPRES LI-ON UL 3400 MAH 3.38”(H) 2.25”(L) 1.8” 1.63”(D)	$140

6.34 CHARGERS FOR APX 6000, APX 6000XE, APX 8000 AND APX 800XE

Model	Description	Unit Price
NNTN8844A	IMPRES 6 Unit Charger with Display Automatically reconditions IMPRES batteries based on actual usage, keeping them in peak condition.	$1,000
NNTN8860A	IMPRES Single Unit Charger- Automatically reconditions IMPRES batteries based on actual usage, keeping them in peak condition	$90
NNTN7624C	IMPRES Vehicular Charger (Full Kit)-Hard Wired Installation The APX IMPRES vehicular charger has full IMPRES charger to battery communication capability. This ensures continuity of IMPRES battery charge data logging in a vehicular environment, so the IMPRES battery will receive adaptive, automatic reconditioning and will qualify for the 6-month capacity warranty extension. **NOTE:** The IMPRES compatible vehicular charger will not recondition IMPRES batteries while in a vehicle, but it will provide an indication when reconditioning is required in an IMPRES desktop charger.	$312
RLN6434A	APX Travel Charger- Cigarette Lighter Adaptor Its small compact design allows the radio to be used while rapid charging in the charger base. Unit includes a voltage regulated vehicular charger adapter, custom charger base, mounting bracket and coil cord.	$88

FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER TO ACCESSORIES CATALOG.ACCESSORIES NOT LISTED ARE 20% OFF LIST PRICE.
https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

6.35 APX 4000 DIGITAL 700/800 MHZ PORTABLE RADIOS



Figure 6-5: APX 4000 Model 3

6.36 APX 4000 PORTABLE RADIOS DESCRIPTION

With its easy-to-use interface, color display, intelligent lighting and radio profiles, you get all the power of APX in a compact radio. And its IP67 and MIL-STD certified to withstand dust, heat, shock, drops and water immersion, so you can count on it wherever you need it.

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG.
https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

6.37 APX 4000 PORTABLE RADIO MODEL 3 WITH ENCRYPTION

Package Price: $4,094

Model/Option	Description
H51UCH9PW7 N	APX 4000 7/800 MHZ MODEL 3 PORTABLE
QA02756	ENH: 3600 OR 9600 TRUNKING BAUD SIN
Q629	ADD: AES ENCRYPTION
Q498	ENH: ASTRO 25 OTAR W/ MULTIKEY
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA00582	ALT: IMPRES LI-ION 2500MAH UL (NNTN8560A)
QA09008	ADD: GROUP SERVICES
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

6.38 APX 4000 PORTABLE RADIO MODEL 3 - NO ENCRYPTION

Package Price: $3,213

Model/Option	Description
H51UCH9PW7 N	APX 4000 7/800 MHZ MODEL 3 PORTABLE
QA02756	ENH: 3600 OR 9600 TRUNKING BAUD SIN
QA00582	ALT: IMPRES LI-ION 2500MAH UL (NNTN8560A)
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA09008	ADD: GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

6.39 APX 4000 PORTABLE RADIO MODEL 2 WITH ENCRYPTION

Package Price: $3,783

Model/Option	Description
H51UCF9PW6 N	APX 4000 7/800 MHZ MODEL 2 PORTABLE
QA02756	ENH: 3600 OR 9600 TRUNKING BAUD SIN
Q629	ADD: AES ENCRYPTION
Q498	ENH: ASTRO 25 OTAR W/ MULTIKEY
QA00582	ALT: IMPRES LI-ION 2500MAH UL (NNTN8560A)
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA09008	ADD: GROUP SERVICES
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

6.40 APX 4000 PORTABLE RADIO MODEL 2 - NO ENCRYPTION

Package Price: $2,902

Model/Option	Description
H51UCF9PW6 N	APX 4000 7/800 MHZ MODEL 2 PORTABLE
QA02756	ENH: 3600 OR 9600 TRUNKING BAUD SIN
G996	ADD: PROGRAMMING OVER P25 (OTAP)
QA00582	ALT: IMPRES LI-ION 2500MAH UL (NNTN8560A)
QA09008	ADD: GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
H885BK	ADD: 3 YEAR ESSENTIAL SERVICE

6.41 APX 4000 ACCESSORIES

6.42 SPARE BATTERIES

Model	Description	Unit Price
NNTN8560A	ALT: IMPRES LI-ION 2500MAH UL (QA00582)	$112

6.43 CHARGERS

Model	Description	Unit Price
PMPN4174A	APX4000 SINGLE UNIT CHARGER	$55
PMPN4284A	SIX BANK CHARGER	$474
NNTN8525	APX TRAVEL CHARGER (CIGARETTE LIGHTER ADAPTER)	$68
NNTN7616D	IMPRES VEHICULAR CHARGER (FULL KIT-HARD WIRED)	$303

Portable radios do not come with chargers.

FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG.ACCESSORIES NOT LISTED ARE 20% OFF LIST PRICE.
https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

SECTION 7

EXHIBIT A: APX8500 CONTROL STATIONS AND CONSOLETTES



Figure 7-1: APX 8500 Consolette with Full Front Panel

7.1 APX 8500 DESCRIPTION

The APX 8500 meets P25 public safety specifications for multi-agency collaboration by offering the option to operate in separate all band configurations. APX 8500 can work across multiple digital and analog networks from conventional and SmartZone® to ASTRO® 25 providing true P25 Functionality. When multiband operation is needed, the APX 8500 is capable of being programmed with any two frequency bands. Only one band can be utilized at time.

Enhanced Frequency Spectrum Utilization

The APX 8500 is designed to offer multiple frequency band solutions for perfect system optimization in congested urban areas or wider country regions. Motorola currently offers the 700/800 MHz all band (764-870MHz), 10-35 watt variable power, VHF (136-174 MHZ), UHF Range 1 (380-470 MHz) and UHF Range 2 (450-520 MHz).

7.2 APX 8500 CONSOLETTE DESCRIPTION

The APX 8500 Consolette is the ideal complement to your dispatch console. It's a mid-power RF control station for the ASTRO 25 System that can be used as an emergency backup station when you infrastructure is off-line or for wireless access to different system types for increased interoperability.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

7.3 CONSOLETTE FEATURES

The APX8500 Consolette has up to 2000 channels, Optional Multi-Band Operation, Embedded Digital Signal, Intelligent Priority Scan, Unified Call List, Instant Recall, Tactical Inhibit, Intelligent Lighting, Integrated Encryption Hardware and Tone Remote Control.

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG.
https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

7.4 APX 8500 SINGLE BAND CONSOLETTE 700/800MHZ WITH ENCRYPTION AND FULL FRONT PANEL (AC POWER CORD)

Package Price: $6,792

Model	Description
L37TSS9PW1AN	APX ALL BAND CONSOLETTE
G806	ENH: SOFTWARE ASTRO DIGITAL CAI OPERATION
G843	ADD: AES ENCRYPTION
G51	ENH: SMARTZONE OPERATION APX
G361	ADD: P25 TRUNKING SOFTWARE
W382	ADD: CONTROL STATION DESK GCAI MIC
G996	ADD: PROGRAMMING OVER P25 (OTAP)
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
L999	ADD: FULL FP W/05/KEYPAD/CLOCK/VU
G78	ADD: 3 YEAR ESSENTIAL SERVICE
CA01598	AC POWER CORD
QA09008	ADD: GROUP SERVICES
GA05508	DEL: DELETE VHF BAND
GA05509	DEL:DELETE UHF BAND

Note: For DC power cord add $40.15 (ADD:DC Line Cord/Part CA01942).

7.5 APX 8500 SINGLE BAND CONSOLETTE 700/800 MHZ FULL FRONT PANEL- NO ENCRYPTION (AC POWER CORD)

Package Price: $5,861

Model	Description
L37TSS9PW1AN	APX ALL BAND CONSOLETTE
G806	ENH: SOFTWARE ASTRO DIGITAL CAI OPERATION
G51	ENH: SMARTZONE OPERATION APX
G361	ADD: P25 TRUNKING SOFTWARE
W382	ADD: CONTROL STATION DESK GCAI MIC
G996	ADD: PROGRAMMING OVER P25 (OTAP)
L999	ADD: FULL FP W/05/KEYPAD/CLOCK/VU
G78	ADD: 3 YEAR ESSENTIAL SERVICE
QA09008	ADD: GROUP SERVICES
CA01598	AC POWER CORD
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
GA05508	DEL: DELETE VHF BAND
GA05509	DEL:DELETE UHF BAND

Note: For DC power cord add $40.15 (ADD:DC Line Cord/Part CA01942)

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

7.6 APX 6500 ENHANCED 700/800 MHZ CONTROL STATION WITH ENCRYPTION (SINGLE BAND ONLY)

Package Price: $5,546

Model	Description
M25URS9PW1BN	APX6500 ENHANCED 700/800 MHZ MID POWER MOBILE 10-35 WATT
G806	ENH: ASTRO DIGITAL CAI OP APX
G51	ENH: SMARTZONE OPERATION APX6500
G361	ADD: P25 TRUNKING SOFTWARE
GA00805	ADD: APX 07 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
G996	ADD: PROGRAMMING OVER P25 (OTAP)
G66	ADD: DASH MOUNT MID POWER
W665	ADD: CONTROL STATION OPERATION
G91	ADD: CONTROL STATION POWER SUPPLY
G142	NO SPEAKER NEEDED
W382	ADD: CONTROL STATION DESK GCAI MIC
QA09008	ADD: GROUP SERVICES
G89	ADD: NO RF ANTENNA NEEDED
G78	ADD: 3 YEAR ESSENTIAL SERVICE

7.7 APX 8500 MOBILE ALL BAND CONTROL STATION RADIO WITH ENCRYPTION

Package Price: $6,994

Model	Description
M37TSS9PW1 N	APX8500 ALL BAND MP MOBILE
G51	ADD: SMARTZONE OPERATION
G806	ADD: ASTRO DIGITAL CAI OPERATION
G361	ADD: P25 TRUNKING SOFTWARE
GA00805	ADD: APX O7 CONTROL HEAD
G444	ADD: CONTROL HEAD SOFTWARE
G843	ADD: AES ENCRYPTION
G66	ADD: DASH MOUNT
W382	ADD: CONTROL STATION DESK GCAI MIC
G89	ADD:NO RF ANTENNA NEEDED
G142	ADD: NO SPEAKER NEEDED
G996	ENH: OVER THE AIR PROVISIONING
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
GA00235	ADD: NO GPS ANTENNA NEEDED
G91	ADD: CNTRL STATION PWR SUPPLY
W665	ADD: CONTROL STATION OPERATION
GA01517	DEL: NO J600 ADAPTER CABLE NEEDED
QA09008	ADD: GROUP SERVICES
G78	ADD: 3 YEAR ESSENTIAL SERVICE

7.8 APX 8500 CONTROL STATION DELETE FREQUENCY BAND (OPTIONAL)

Include all of the options from APX8500 Control Station configuration and add desired option/s below (Can only select two):

Model	Description	Unit Price
QA05507	DEL: DELETE 7/800 MHZ BAND	-($580)
QA05508	DEL: DELETE VHF BAND	-($580)
QA05509	DEL: DELETE UHF BAND (DELETES BOTH UHF BANDS)	-($580)

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

7.9 APX 4500 SINGLE BAND CONTROL STATION RADIO-WITH ENCRYPTION

Package Price: $4,363

Model	Description
M22URS9PW1 N	APX4500 7/800
QA02756	ADD: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM
G843	ADD:AES ENCRYPTION
GA00804	ADD: APX O2 CONTROL HEAD
G444	ADD: APX CONTROL HEAD SOFTWARE
G66	ADD: DASH MOUNT
W382	CONTROL STATION DESK GCAI MIC
G996	ADD: PROGRAMMING OVER P25 (OTAP)
G298	ENH: ASTRO 25 OTAR W/ MULTIKEY
G142	ADD: NO SPEAKER NEEDED
G91	ADD: CONTROL STATION POWER SUPPLY
W665	ADD: CONTROL STATION OPERATION
GA09008	ADD: GROUP SERVICES
G24	ADD: 3 YEAR ESSENTIAL SERVICE

7.10 APX 4500 SINGLE BAND CONTROL STATION RADIO-NO ENCRYPTION

Package Price: $3,482

Model	Description
M22URS9PW1 N	APX4500 7/800
QA02756	ADD: 3600 OR 9600 TRUNKING BAUD SINGLE SYSTEM
GA00804	ADD: APX O2 CONTROL HEAD
G444	ADD: APX CONTROL HEAD SOFTWARE
G66	ADD: DASH MOUNT
G335	ADD: ANT 1/4 WAVE 762-870MHZ
W382	CONTROL STATION DESK GCAI MIC
G996	ADD: PROGRAMMING OVER P25 (OTAP)
G142	ADD: NO SPEAKER NEEDED
G91	ADD: CONTROL STATION POWER SUPPLY
W665	ADD: CONTROL STATION OPERATION
GA09008	GROUP SERVICES
QA05751AA	NO ENCRYPTION, CLEAR RADIO (NO ADP)
G24	ADD: 3 YEAR ESSENTIAL SERVICE

7.11 APX DESKTOP MOBILE TRAY (COMPATIBLE WITH APX4500, APX6500 AND APX8500)

Model	Description	Unit Price
HLN6042A	Motorola HLN6042A desktop tray with speaker allows users to conveniently convert an APX mobile into a basic base station.	$66

SECTION 8

8.1 EXHIBIT A: MCD5000 DESKSET AND RADIO GATEWAY UNIT (RGU)



The MCD 5000 Deskset System is the Motorola Solution's next generation radio dispatch deskset platform that utilizes VoIP technology. The MCD 5000 Deskset can be deployed on existing customer's IP network or on a stand-alone IP network. The MCD 5000 Deskset is part of the MCD 5000 Deskset System that provides radio dispatch capability when connected to a two-way radio device. MCD 5000 Desksets can be placed anywhere on the IP network. Each MCD 5000 Deskset connects to a single radio device at a time. The MCD 5000 Deskset may connect directly to a radio or connected to a selected radio over IP network via the MCD 5000 Radio Gateway Unit (RGU). MCD5000 is compatible with APX7500 and APX8500 Consolettes.

8.2 MCD 5000 DESKSET

Model	Description	Unit Price
F2380A	MCD5000 DESKSET	$1,290
FHN7469A	MCD5000 POWER CORD	$86

8.3 RADIO GATEWAY UNIT (RGU)

Model	Description	Unit Price
F7879B	RADIO GATEWAY UNIT (RGU)	$1,290
FHN7469A	RGU POWER CORD	$86

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

8.4 MCD 5000 DESKSET AND RADIO GATEWAY UNIT (RGU)

Model	Description	Unit Price
FHN7394	MCD 5000 DESKSET WALL MOUNT KIT-Provides one wall mount base kit to be used for mounting a MCD 5000 Deskset (F2380) to a wall.	$21
FTN7490	MCD 5000 DESKSET RGU RACK MOUNT PANEL PLUS SCREWS	$172

RADIO PACKAGES NOT LISTED ARE 27.5% OFF LIST AND ACCESSORIES ARE 20% OFF LIST PER SECTION 9 "ADDITIONAL DISCOUNTS" SECTION OF THIS PRICE BOOK. ALL OTHER DISCOUNTS FOR PRODUCTS AND SERVICES ALSO LISTED IN SECTION 9. FOR SPEAKER MICS AND ADDITIONAL ACCESSORIES PLEASE REFER ACCESSORIES CATALOG.
https://shop.motorolasolutions.com/?_ga=2.209673489.265811969.1588006669-1558378512.1587576280

SECTION 9

EXHIBIT A: DISPATCH CENTER EQUIPMENT

9.1 ADDITIONAL FIXED SYSTEM AND DISPATCH CENTER EQUIPMENT

Please contact your Motorola Account Manager prior to purchasing this equipment. Engineering and technical considerations are required. Discount listed in section 9.



Figure 9-1: Dispatch Center Equipment

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

SECTION 10

10.1 EXHIBIT A: ADDITIONAL DISCOUNTS

Blanket discount applies to the section as stated, with specific Exceptions as stated.

Pricing shall be in accordance with Motorola Solutions Systems PCAT Electronic Catalog.

Discounts only apply to specific main line and options.

All subscription based products and services will be subject to Motorola's Subscriptions Services Agreement."

Equipment and Services	Discount %
APX Next Hardware	10%
APX Series Radio Packages	27.5%
APX Radio Accessories if not Ordered in a Radio Package	20%
Automatic License Plate Recognition (ALPR)	15%
Body Worn Cameras	10%
Broadband	10%
CAD/RMS/Jail/Mobile Applications	5%
Command Central Suite	15%
Comparators	14%
Consoles	14%
Conversion Kits (Subscribers)	20%
Crime Analysis and Visualization	10%
Critical Connect	5%
Data Products	5%
Desksets	14%
Digital Evidence Mangement (DEMS)	10%
Dispatch Furniture	10%
NG911- Including but not limited to: -Vesta -Emergency Call Works	5%-35% Will Vary Depending on APC Contact Motorola Account Manager for Pricing
Encoders	4%
Enhanced Statistical Awareness Tools	10%
Evidence Collection (Scene Doc)	10%
Fixed Data Products	14%
Fixed Stations- Including, but not limited to: ▪ Repeaters / Receivers	19%
Fixed Station Accessories	4%
Fixed Station Antenna Systems	4%

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Equipment and Services	Discount %
Fixed Station Controls- Including, but not limited to: -MCC7500 -MCC7500e -Avtec -Monitoring and Control Stations -911 -Logging Recorders -AXS Console -Other Consoles/Equipment	14%
Hardware and Software Not Listed	5%
LEX Devices	15%
Mobile Accessories	20%
Mobile Radios/Stations Not Listed	10%
Mototrbo	12%
MSB Building	4%
Networking Products	14%
Portable Accessories	20%
Portable Radios Not Listed	10%
Predictive Analytics	10%
Receivers	19%
Trunked Systems	14%
Social Media Analytics	10%
Software Solutions	5%
Subscriber FLASHport Software Upgrade	20%
Subscription Services	0%
Motorola Parts and Accessories (if not in a radio package)	20%
Non-Motorola Mfg. Items/Drop Ship	4%
Motorola Radios Not Listed	20%
Video Solutions-Including but not limited to: -Avigilon -Vigilant -WatchGuard -Fixed Video -In Car Video	15%
Virtual Collaboration Tools	10%
SERVICES AND TRAINING	
Depot Repair- Current flat rate fees apply for time and material. Discounts available if Depot Service Contract signed with Motorola.	0%
Engineering or Project Management. Contact Motorola Account Manager	$0% Price Will Vary
Other Services-Including but not limited to: Maintenance and Support and SUA. Will vary according to project scope. Contact Motorola Account Manager for quote.	0% Price Will Vary

10.2 NOTES

1. For equipment that is not listed out individually or in packages please see Section 9 “Additional Discounts” section of the price book for discount level.
2. The base part number will always stay the same. However, occasionally a suffix on a part number will be changed.
3. Existing suffixes on a part numbers are subject change. However, the base part number will always stay the same.
4. Product description may vary slightly depending on which source information on a particular product is pulled from.
5. No discounts available on flash upgrades; however, a discount is available on software options, if purchased with radios.
6. Service pricing will vary depending on project scope and resources needed. Please contact Motorola Sales Representative for services quotes.
7. If a part is discontinued it may be replaced with a substituted part that has the same functionality and quality.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

SECTION 11

TERMS AND CONDITIONS

11.1 PRICE BOOK AGREEMENT

County of Orange and Motorola, Inc.
Price Book Agreement

Motorola Solutions, Inc., formerly Motorola, Inc., and the County of Orange propose the following changes to Amendment No. 3 to Agreement Number S0000015.95 (Amendment) as the basis for a new Agreement between the Parties for purchasing Equipment, software and related services. This new County Price Book Agreement is number 060-15011560.

Recitals

1. The County of Orange ("County") desires to purchase from Motorola Solutions, Inc. ("Motorola") various products, equipment, software from Motorola's Price Book, and related services.
2. The County contract Number S0000015.95 with Motorola expired on May 20, 2010, and was replaced with County Price Book Agreement MA-060-10012594. County Price Book Agreement MA-060-15011560 expires on May 21, 2020, and this Agreement is the new contract replacing County Price Book Agreement MA-060-10012594 by which the County may purchase products, equipment, software and related services from Motorola.MA-060-15011560 Replaced with Contract # MA-060-21010004 which Expires on May 20, 2025.
3. Motorola has a published price book containing the products, equipment, software, and related services, and is offering it to the County.

Terms

County and Motorola agree as follows:

Section 1 Exhibits

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits.

Exhibit A Orange County Price Book (See Section1 through 9 above.)
Exhibit B Motorola Software License Agreement
Exhibit C County Participants

Exhibit A may be amended from time to time to add, delete, or change offered products as new products become available or existing products become obsolete.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Section 2 Definitions

“Contract Participants” are more particularly described in Exhibit C.

“Customer” means the County and any of its Contract Participants.

“Effective Date” means that date upon which the last party to sign this Agreement has executed this Agreement.

“Equipment” means the hardware and components listed in the Orange County Price Book.

“Infringement Claim” means a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software infringes upon the third-party’s United States patent or copyright

“Motorola Software” means Software that Motorola owns.

“Non-Motorola Software” means Software that a party other than Motorola owns.

“Party” means Customer or Motorola, as the context indicates; “Parties” means both of them.

“Price Book” means the Orange County Price Book dated May 21, 2020 (Exhibit A).

“Proprietary Rights” means the patents, patent applications, inventions, copyrights, trade secrets, trade marks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software made by Motorola or another party.

“Software” means the Motorola and Non-Motorola Software in object code format that is furnished with the Equipment.

“Software License Agreement” means the agreement in Exhibit B.

Section 3 Terms of the Agreement

3.1 Terms of Purchase. This Agreement shall apply only to purchases of products, equipment, software, and related services that occur on or after the Effective Date. Also, this Agreement may be used for system transactions, provided that necessary additional documents are mutually agreed; these additional documents may include a system description, statement of work, equipment list, acceptance test plan, project schedule, payment milestone schedule, and supplemental terms and conditions that apply to that system transaction but which do not generally modify this Agreement. Although pricing for system transactions will be based off of the Orange County Price Book, nothing in this Agreement precludes Motorola from offering additional discounts such as a system discount.

3.2 Controlling Terms and Conditions. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of

the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.

3.3 Change Orders. Either Party may request changes within the general scope of this Agreement. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.4 Term. Unless otherwise terminated in accordance with the provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement will begin on the Effective Date and shall continue until May 20, 2025.

3.4.1. Termination for Convenience. Notwithstanding any other provision of this Agreement, the Customer may, at any time, and without any cause, terminate this Agreement in whole or in part, upon not less than seven (7) days' written notice to Motorola. Such termination shall be effected by delivery to Motorola of a notice of termination specifying the effective date of the termination and the extent of the Work (i.e., ordered products and/or services) to be terminated. Motorola shall immediately stop work in accordance with the notice and comply with any other direction as may be specified in the notice or as provided subsequently by the Customer. Customer shall pay Motorola for the Work completed prior to the effective date of the termination, and such payment shall be Motorola's sole remedy under this Agreement. Under no circumstances will Motorola be entitled to anticipatory or unearned profits, consequential damages, or other damages of any sort as a result of a termination or partial termination under this Paragraph.

3.5 Maintenance Service. This Agreement does not cover maintenance or support of the Equipment except as provided under the warranty. If Customer wishes to purchase maintenance or support, Motorola will provide a separate maintenance and support proposal upon request.

3.6 Non-Motorola Software. Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software. All Open Source Software is licensed to Customer in accordance with, and Customer agrees to abide by, the provisions of the standard license of the copyright owner and not the Software License Agreement. Upon request by

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Customer, Motorola will use commercially reasonable efforts to determine whether any Open Source Software will be provided under this Agreement; and if so, identify the Open Source Software and provide to Customer a copy of the applicable standard license (or specify where that license may be found); and provide to Customer a copy of the Open Source Software source code if it is publicly available without charge (although a distribution fee or a charge for related services may be applicable).

3.7 Motorola Software. Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement. TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERCEDES THIS SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

3.8 Services. If services are being provided, they will be provided at the location specified in the description of the services. Unless otherwise stated in the description of the services, the hours of service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays. Unless otherwise stated in the description of the services, the price for the services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the services and agreed to by Customer prior to incurring such expenses, Customer agrees to reimburse Motorola for those charges and expenses.

3.9 Any subscription based services or products purchased will be subject to Contractor's Subscription Services Agreement, a copy of which is available upon request.

Section 4 Payment Requirements

4.1 Terms of Payment. Motorola will submit to Customer invoices for Equipment or Software when they are delivered and for related services when they are performed (but no more frequently than monthly). Customer will make payments to Motorola within thirty (30) days after receipt of Motorola's invoice. Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution. Payments made by Customer shall not preclude the right of Customer from thereafter disputing any Equipment or service billed under this Agreement and shall not be construed as acceptance of the Products.

4.2 Freight, Title and Risk of Loss. All freight charges will be pre-paid by Motorola and added to the invoices. Title and risk of loss to the Equipment will pass to Customer upon delivery to Customer, except that title to Software will not pass to Customer at any time but is licensed. Motorola will pack and ship all Products in accordance with good commercial practices.

4.3 Invoicing Instructions. As a condition of payment of any invoice, the Customer must receive an invoice in an acceptable format, including Motorola's Federal I.D. number (36-1115800) and the California seller's permit number (SR SOHA 30-616008), if applicable. In addition, sufficient itemization and/or description, including the serial numbers of any equipment items, must appear on the invoice. Dollar amounts, extensions and totals must be correct. When appropriate, dollar amounts for taxes, freight or any other fees must be adequately described and itemized.

Section 5 Pricing

The pricing of the Equipment, Software, and services is controlled by the Orange County Price Book. The prices in the Orange County Price Book for Equipment and Software are a fixed discount off of the list price for specific categories of Equipment or Software. The applicable list price shall be the list price in effect on the date of the order. However, Motorola will provide Customer with reasonable notice and a 30 day grace period before any price change will take effect. If a new product is added to the Price Book, Motorola reserves the right to establish a fixed discount for the new product. Any discount not meeting the category discount shall be by mutual agreement of the Parties.

Section 6 Acceptance

Acceptance of the Equipment will occur upon delivery to Customer unless the Statement of Work provides for acceptance verification or testing, in which case acceptance of the Equipment will occur upon successful completion of the acceptance verification or testing. Notwithstanding the preceding sentence, Customer's use of any Equipment or Software for their operational purposes will constitute acceptance. Equipment shall not be accepted for purposes of this section if returned by the Customer for Equipment that is not conforming to the order, defective or unsatisfactory.

Section 7 Representations and Warranties

7.1 Equipment Warranty. For one (1) year from the date of delivery, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. Motorola shall repair or replace equipment or parts during the warranty period. All parts and labor shall be included by Motorola at no charge. If a piece of equipment fails or operates at less than the manufacturer's designed specifications three times for the same or similar reason, within its warranty period, Motorola will replace the piece of equipment at Customer's request and at Motorola's cost.

7.2 Software Warranty. For one (1) year from the date of delivery, Motorola warrants the Motorola Software in accordance with the terms of the Software License Agreement and the provisions of this Section that are applicable to the Motorola Software.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

7.3 Services Warranty. For 90 days from the date the services were performed, Motorola warrants that the services were performed in a good and workmanlike manner, consistent with industry practices.

7.4 Exclusions to Equipment and Software Warranties. These warranties do not apply to: (i) defects or damage resulting from use of the Equipment or Software in other than its normal, customer, and authorized manner; (ii) defects or damage occurring from misuse, accident, liquids, neglect, or acts of God; (iii) defects or damage occurring from testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; (iv) breakage of or damage to antennas unless caused by Customer's failure to comply with all applicable industry and OSHA standards; (v) Equipment that has had the serial number removed or made illegible; (vi) batteries (because they carry their own separate limited warranty); (vii) scratches or other cosmetic damage to Equipment surfaces that does not affect operation of the Equipment; and (viii) normal or customary wear and tear.

7.4 Warranty Claims. Motorola will, at no additional charge to Customer, repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software upon verbal notification by Customer. Motorola will, at no additional charge to Customer, re-perform defectively performed services upon verbal notification by Customer. Such action will be the full extent of Motorola's liability hereunder. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's current labor rates. Repaired or replaced product is warranted for the balance of the original applicable Warranty Period. All replaced products or parts will become the property of Motorola.

7.5 Parts Availability. Motorola will use best commercially reasonable efforts to provide replacement parts for Motorola manufactured subscriber equipment for five (5) years and for Motorola manufactured fixed infrastructure equipment for seven (7) years from the date at which the product is no longer shipped. Motorola reserves the right to supply either assemblies or piece parts. Concerning non-Motorola manufactured Equipment; if Motorola receives written notice from a third party vendor that it intends to cancel any Equipment it provides, Motorola shall provide Customer written notice prior to the scheduled cancellation to provide Customer the opportunity to purchase replacement parts.

7.6 Third Party Warranty. Motorola will pass through to Customer on a non-exclusive basis any assignable third party warranties that exceed the Motorola warranty provided in this Agreement. Motorola will not assume any obligations concerning the pass-through third party warranties.

7.7 Original End User is Covered. These express limited warranties are extended by Motorola to the original user purchasing the Equipment or Motorola Software for commercial, industrial, or governmental use only, and are not assignable or transferable.

7.8 EQUIPMENT COMPATIBILITY Equipment provided pursuant to this Agreement must operate in a manner compatible with the County's Countywide Coordinated Communications System ("CCCS").

7.9 DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE PRODUCTS, EQUIPMENT, MOTOROLA SOFTWARE, AND SERVICES PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. EXCEPT FOR THE FOREGOING EXPRESS WARRANTIES, THE PRODUCTS, EQUIPMENT MOTOROLA SOFTWARE, AND SERVICES ARE PROVIDED "AS IS" AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NOTWITHSTANDING THE PRECEDING SENTENCE, MOTOROLA EXPRESSLY WARRANTS THAT ALL PRODUCTS, EQUIPMENT AND SOFTWARE PROVIDED UNDER THIS AGREEMENT IS MERCHANTABLE (WITHIN THE MEANING OF SECTION 2314 OF THE CALIFORNIA COMMERCIAL CODE) AND THAT SUCH PRODUCTS, EQUIPMENT AND SOFTWARE IS SUITABLE AND FIT FOR THE PARTICULAR PURPOSE OF USE AS A REGIONAL RADIO COMMUNICATIONS SYSTEM. MOTOROLA DOES NOT WARRANT THAT LICENSEE'S USE OF THE MOTOROLA SOFTWARE OR PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT.

Section 8 Conflicts of Interest

Motorola shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict of interest of the County or other third parties named in Exhibit C. This obligation shall apply to Motorola's employees, agents, relatives, sub-tier contractors, and third parties associated with the Equipment and Software in this Agreement. Motorola may not make, receive, provide, or offer gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the interest of the County or third parties named in Exhibit C.

Section 9 Delays/Force Majeure

Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen (15) days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the performance schedule for a time period that is reasonable under the circumstances.

Section 10 Disputes

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

The Parties will use the following procedure to address any dispute arising under this Agreement (a “Dispute”).

10.1. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State of California.

10.2. NEGOTIATION. Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute (“Notice of Dispute”). The Parties will attempt to resolve the Dispute promptly through good faith negotiations, including timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and direct communication between the executives. If the Dispute has not been resolved within thirty (30) days from the Notice of Dispute, the Parties will proceed to mediation.

10.3. MEDIATION. The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party (“Notice of Mediation”). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

10.4. LITIGATION, VENUE AND JURISDICTION. If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, or the Dispute concerns intellectual property, either Party may then submit the Dispute to a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

10.5. CONFIDENTIALITY. All communications pursuant to subsections 10.2 and 10.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

Section 11 Patent and Copyright Infringement Indemnification

Motorola will defend at its expense any suit brought against Customer to the extent it is based on an Infringement Claim, and Motorola will indemnify and hold harmless Customer for those costs and damages finally awarded against Customer for an Infringement Claim. Motorola's duties to defend, indemnify and hold harmless are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim.
If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense procure for Customer the right to continue using the Equipment or Motorola Software, replace or modify it so that it becomes non-infringing while providing functionally equivalent performance, or grant Customer a credit for the Equipment or Motorola Software as depreciated and accept its return. The depreciation amount will be calculated based upon generally accepted accounting standards for such Equipment and Motorola Software.

Motorola will have no duty to defend, indemnify or hold harmless for any Infringement Claim that is based upon the combination of the Equipment or Motorola Software with any software, apparatus or device not furnished by Motorola; the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Equipment or Motorola Software; any Equipment that is not Motorola's design or formula; a modification of the Motorola Software by a party other than Motorola; or the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. The foregoing states the entire liability of Motorola with respect to infringement of patents and copyrights by the Equipment, Motorola Software, or any of their parts.

Section 12 Limitation of Liability

Except for personal injury or death, Motorola's and Customer's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or services with respect to which losses or damages are claimed. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA AND CUSTOMER WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. On no instance shall the limitation of liability impair the County's ability to seek remedy for damages through the Contractor's insurance carrier for the primary limit and coverage up to $5,000,000. This limitation of liability provision survives the expiration or termination of the Agreement.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Section 13 Proprietary Rights

13.1 Proprietary Rights of Equipment and Software. Motorola owns and retains all of its Proprietary Rights in the Equipment and Software. The third party manufacturer of any Equipment and the copyright owner of any Non-Motorola Software own and retain all of their Proprietary Rights in the Equipment and Software. Nothing in this Agreement is intended to restrict the Proprietary Rights of Motorola, any copyright owner of Non-Motorola Software, or any third party manufacturer of Equipment. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment and Software remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property.

13.2 Software License. Except as explicitly provided in the Software License agreement, nothing in this Agreement will be deemed to grant, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Concerning both the Motorola Software and Non-Motorola Software, Customer agrees not to modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, or export the Software or permit or encourage any third party to do so.

Section 14 General

14.1 Taxes. The Agreement Price does not include any amount for federal, state, or local excise, sales, lease, service, rental, use, property, occupation, or other taxes, assessments or duties (other than federal, state, and local taxes based on Motorola's income or net worth), all of which will be paid by Customer except as exempt by law. If Motorola is required to pay or bear the burden of any such taxes, Motorola will send an invoice to Customer and Customer will pay Motorola the amount of such taxes (including any applicable interest and penalties) within thirty (30) days from receipt of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes.

14.2 Assignability. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola is involved in a major corporate restructuring (such as a sale, acquisition, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement as part of or following the Separation Event. Motorola shall provide Customer reasonable written notice of a Separation Event.

14.3 Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver of consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, or excuse for any other different or subsequent breach.

14.4 Validity. The invalidity in whole or in part of any provision of this Agreement as mutually agreed to by the Parties, or as adjudicated by a court of competent jurisdiction, does not void or affect the validity of any other provision of this Agreement.

14.5 Independent Contractors. Nothing contained in this Agreement shall be construed as creating the relationship of employer/employee or principal/agent.

14.6 Governing Law. The formation, interpretation, and performance of this Agreement shall be governed by the laws of the State of California, provided that no provision of this Agreement shall be interpreted for or against a Party because that Party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties. No lawsuit pertaining to any matter arising under or growing out of this Agreement shall be instituted in any state other than California.
Any legal proceeding with respect to this Agreement shall be filed in the appropriate Court of the State of California in Orange County, California consistent with Section 10.4, above.

14.7 Notices. Notices required under this Agreement to be given by one Party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service with an asset tracking system, such as Federal Express, UPS, or DHL), or by email, and shall be effective upon receipt:

Motorola Solutions, Inc.	**Orange County**
Attn: Kim Caplan Sr. Account Manager 6450 Sequence Drive San Diego, CA 92121 O: 760-630-5199 M: 858-442-3979	Attn: Dave Fontneau Division Director 840 N. Eckhoff St., Suite 104 Orange, CA 92868 O. 714-704-7919

14.8 FCC Licenses. Customer will obtain and comply with all Federal Communications Commission (“FCC”) licenses and authorizations required for the installation, operation and use of Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.

14.9 Indemnity. Motorola agrees to indemnify, defend, protect, investigate any claims, and to hold harmless the County and third parties named in Exhibit C, their

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

officers, elected officials, employees and agents from and against any and all claims, demands or liability established resulting from damages or injuries to persons or property which arise from or are related to negligent errors, acts or omissions of Motorola and its agents under this Agreement; Motorola shall not however indemnify, defend, protect and hold harmless the County or third parties named in Exhibit C from claims, demands, or liability arising from the negligence as it relates to the errors, acts or omissions of the County or the third parties named in Exhibit C. Motorola's obligations under this provision shall not affect the right of the Customer to appear and to participate in legal actions against third parties bringing such suits. The Customer may take other action necessary to protect its interests. If Motorola's negligence combines with the negligence of the County or other third parties named in Exhibit C to cause injury, the Parties agree that liability will be apportioned as determined by a court of competent jurisdiction. Neither party shall request a jury apportionment.

14.10 Authority to Execute Agreement. Each Party represents to the other that (i) it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under the Agreement; (ii) the person executing this Agreement on its behalf has the authority to do so; (iii) upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and (iv) the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

14.13 Equipment End of Life Cycle. Motorola reserves the right to stop selling or shipping Equipment at any time. However, Motorola will provide Customer with a written notice of cancellation of Motorola manufactured Equipment one (1) year prior to the cancellation date. Motorola has no control over third-party vendors' end of life cycle plans for the non-Motorola manufactured Equipment. If a third-party vendor cancels its non-Motorola manufactured Equipment or files for bankruptcy, Motorola will use commercially reasonable efforts to obtain equivalent Equipment from another source.

14.14. Insurance Requirements. During the term of this Agreement, Motorola will obtain and maintain at its expense all insurance as required below and will provide to the County a Certificate of Insurance and all required endorsements that are necessary to indicate compliance with these insurance provisions. In addition, all subcontractors performing work on behalf of Motorola pursuant to this Agreement shall obtain and maintain similar insurance as determined by the Motorola Insurance Department, excluding Professional Liability which does not apply to subcontractors. Motorola is responsible for all self-insured retentions (SIRs) and deductibles. Motorola declares that its deductibles are in an amount in excess of $25,000. If Motorola fails to maintain insurance acceptable to the County as described herein during the term of this Agreement, the County may terminate this Agreement as provided above in Section *.

Qualified Insurer

Minimum insurance company ratings as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com shall be A- (Secure A.M. Best's Rating) and VIII (Financial Size Category).

The policy or policies of insurance must be issued by an insurer licensed to do business in the State of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the state of California and does not meet or exceed an A.M. Best rating of A-/VIII, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

Coverage	**Minimum Limits**
Commercial General Liability	$1,000,000 per occurrence 2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	$1,000,000 per occurrence
Professional Liability Insurance	$1,000,000 per claims made or per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance and be provided per applicable insurance regulations:

An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, and employees as Additional Insureds.

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

The CGL shall be primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers Compensation policy required by this Agreement shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, and employees when acting within the scope of their appointment or employment.

The Workers Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, and employees.

Motorola shall give the County of Orange 30 days notice in the event of cancellation and 10 days notice for non-payment of premium. If Motorola's Professional Liability policy is a "claims made" policy, it shall maintain professional liability coverage for two years following completion of the Agreement.

The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to: the County of Orange at an address it designates.

Subject to the mutual agreement of the Parties, County expressly retains the right to require Motorola to increase or decrease insurance of any of the above insurance types throughout the term of this Contract as deemed by County of Orange Risk Manager as appropriate to adequately protect County. County shall notify Motorola in writing of changes in the insurance requirements. If Motorola does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Agreement (but not pending orders) may be terminated by County for its convenience.

The procuring of such required policies of insurance shall not be construed to limit Motorola's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.	**Customer** **ORANGE COUNTY, CALIFORNIA**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

SECTION 12

EXHIBIT B: SOFTWARE LICENSE AGREEMENT

Exhibit B

Software License Agreement

This Exhibit B Software License Agreement ("Agreement") is between Motorola Solutions, Inc., (“Motorola"), and the County of Orange, a political subdivision of the State of California (“Licensee”).

For good and valuable consideration, the parties agree as follows:

Section 1 DEFINITIONS

1.1 “Designated Products” means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 “Documentation” means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 “Open Source Software” means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 “Open Source Software License” means the terms or conditions under which the Open Source Software is licensed.

1.5 “Primary Agreement” means the agreement to which
under this exhibit is attached.

1.6 “Security Vulnerability” means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 “Software” (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided separate license or third party software not licensable under the terms of this Agreement.

Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary Software or products containing embedded or pre-loaded proprietary Software, or both. This

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the Software and Documentation.

Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; (ii) identify the Open Source Software and provide Licensee a copy of the applicable Open Source Software License (or specify where that license may be found); and, (iii) provide Licensee a copy of the Open Source Software source code, without charge, if it is publicly available (although distribution fees may be applicable).

Section 4 LIMITATIONS ON USE

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; provided that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4. When using Motorola's Radio Service Software ("RSS"), Licensee must purchase a separate license for each location at which Licensee uses RSS. Licensee's use of RSS at a licensed location does not entitle Licensee to use or access RSS remotely. Licensee may make one copy of RSS for each licensed location. Licensee shall provide Motorola with a list of all locations at which Licensee uses or intends to use RSS upon Motorola's request.

4.5. Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

Section 5 OWNERSHIP AND TITLE

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. The commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

Section 7 TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than RSS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; provided that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach

of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

Section 9 UNITED STATES GOVERNMENT LICENSING PROVISIONS

This Section applies if Licensee is the United States Government or a United States Government agency. Licensee's use, duplication or disclosure of the Software and Documentation under Motorola's copyrights or trade secret rights is subject to the restrictions set forth in subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 (JUNE 1987), if applicable, unless they are being provided to the Department of Defense. If the Software and Documentation are being provided to the Department of Defense, Licensee's use, duplication, or disclosure of the Software and Documentation is subject to the restricted rights set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 (OCT 1988), if applicable. The Software and Documentation may or may not include a Restricted Rights notice, or other notice referring to this Agreement. The provisions of this Agreement will continue to apply, but only to the extent that they are consistent with the rights provided to the Licensee under the provisions of the FAR or DFARS mentioned above, as applicable to the particular procuring agency and procurement transaction.

Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

13.1. COPYRIGHT NOTICES. The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. COMPLIANCE WITH LAWS. Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

13.3. ASSIGNMENTS AND SUBCONTRACTING. (Covered by the primary agreement.)

13.4. GOVERNING LAW. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.5. THIRD PARTY BENEFICIARIES. This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.6. SURVIVAL. Sections 4, 5, 6.3, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.7. ORDER OF PRECEDENCE. In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.8 SECURITY. Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.

SECTION 13

EXHIBIT C: COUNTY PARTICIPANTS

City	Responsible Administrator	Address	Phone #
Aliso Viejo	City Manager	12 Journey #100 Aliso Viejo, CA 92656	949/425-3800
Anaheim	City Manager	200 S. Anaheim Blvd. P.O. Box 3222 Anaheim, CA 92805	714/765-5162
Brea	City Manager	1 Civic Center Circle Brea, CA 92821-5732	714/990-7770
Buena Park	City Manager	6650 Beach Blvd. P.O. Box 5009 Buena Park, CA 90622	714/562-3550
Costa Mesa	City Manager	77 Fair Drive P.O. Box 1200 Costa Mesa, CA 92626	714/754-5327
Cypress	City Manager	5275 Orange Avenue P.O. Box 609 Cypress, CA 90630	714/229-6688
Dana Point	City Manager	33282 Golden Lantern, Suite 210 Dana Point, CA 92629	949/248-3513
Fountain Valley	City Manager	10200 Slater Avenue Fountain Valley, CA 92708	714/593-4410
Fullerton	City Manager	303 W. Commonwealth Fullerton, CA 92832	714/738-6310
Garden Grove	City Manager	11222 Acacia Parkway P.O. Box 3070 Garden Grove, CA 92840	714/741-5100
Huntington Beach	City Administrator	2000 Main Street P.O. Box 190 Huntington Beach, CA 92648	714/536-5575
Irvine	City Manager	1 Civic Center Plaza P.O. Box 19575 Irvine, CA 92606	949/724-6249
Laguna Beach	City Manager	505 Forest Avenue Laguna Beach, CA 92651-2394	949/497-0704

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

City	Responsible Administrator	Address	Phone #
Laguna Hills	City Manager	24035 El Toro Road Laguna Hills, CA 92653	949/707-2610
Laguna Niguel	City Manager	30111 Crown Valley Parkway Laguna Niguel, CA 92637	949/362-4300
Laguna Woods	City Manager	24264 El Toro Road Laguna Woods, CA 92653	949/452-0600
La Habra	City Manager	201 E. La Habra Blvd. P.O. Box 337 La Habra, CA 90633-0337	562/905-9701
Lake Forest	City Manager	25550 Commercentre Drive #100 Lake Forest, CA 92630	949/461-3410
La Palma	City Manager	7822 Walker Street La Palma, CA 90623	714/523-7700
Los Alamitos	City Manager	3191 Katella Avenue Los Alamitos, CA 90720-5600	562/431-3538
Mission Viejo	City Manager	200 Civic Center Mission Viejo, CA 92691	949/470-3051
Newport Beach	City Manager	100 Civic Center Drive P.O. Box 1768 Newport Beach, CA 92660	949/644-3300
Orange	City Manager	300 East Chapman Ave. P.O. Box 449 Orange, CA 92866	714/744-2222
Placentia	City Administrator	401 East Chapman Placentia, CA 92870	714/993-8117
Rancho Santa Margarita	City Manager	22112 El Paseo Rancho Santa Margarita, CA 92688	949/635-1800
San Clemente	City Manager	100 Avenida Presidio San Clemente, CA 92672	949/361-8322
San Juan Capistrano	City Administrator	32400 Paseo Adelanto San Juan Capistrano, CA 92675	949/493-1171
Santa Ana	City Manager	20 Civic Center Plaza P.O. Box 1988 M30 Santa Ana, CA 92701	714/647-5200
Seal Beach	City Manager	211 Eighth Street Seal Beach, CA 90740-6379	562/431-2527 ext. 300
Stanton	City Manager	7800 Katella Avenue Stanton, CA 90680	714/379-9222

City	Responsible Administrator	Address	Phone #
Tustin	City Manager	300 Centennial Way P.O. Box 1089 Tustin, CA 92781-1089	714/573-3010
Villa Park	City Manager	17855 Santiago Blvd. Villa Park, CA 92861	714/998-1500
Westminster	City Manager	8200 Westminster Blvd. Westminster, CA 92683	714/898-3311
Yorba Linda	City Manager	4845 Casa Loma Avenue P.O. Box 87014 Yorba Linda, CA 92885	714/961-7110
West Cities Communications Center (West-Comm)	West-Comm Administrator	911 Seal Beach Blvd. Seal Beach, CA 90740	562/594-7240
Metro Net Fire Dispatch Center	Communications Manager	201 So. Anaheim Blvd. Suite 302 Anaheim, CA 92805	714/254-4077
District Attorney	District Attorney	700 Civic Center Drive West P.O. Box 808 Santa Ana, 92702-0808	714/834-3636
OC Public Works	Director	300 N. Flower St. Santa Ana, CA 92703-5000	714/834-5302
Health Care Agency	Director	405 W. 5th Street Santa Ana, CA 92701	714/834-6021
OC Waste and Recycling	Director	320 N. Flower St., Suite 400 Santa Ana, CA 92703	714/834-4122
John Wayne Airport	Airport Director	3160 Airway Avenue Building K-101 Costa Mesa, CA 92626	714/252-5183
Probation Department	Chief Probation Officer	909 North Main St., Suite 1 Santa Ana, CA 92701	714/569-2300
Sheriff-Coroner Department	Sheriff-Coroner	550 N. Flower St. P.O. Box 449 Santa Ana, CA 92702	714/647-1800
Orange County Fire Authority	Fire Chief	1 Fire Authority Road Irvine, CA 92602	714/573-6000
Orange County Transportation Authority	Lesley Attanese	P.O Box 14184 Orange, CA 92863-1584	714/265-4389

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

City	Responsible Administrator	Address	Phone #
California State University Fullerton Police Department		P.O. Box 6806 Fullerton, CA 92834-6806	657/278-2515
University of California, Irvine Police Department	Barbara Barry	150 Public Services Building Irvine, CA 92697-4900	949/824-5688
California Highway Patrol Helicopters	Bob Fablee	3865-A W. Commonwealth Ave. Fullerton, CA 92833	714/449-7091
Huntington Beach Union High School District Police	Ryan Hasegawa	10251 Yorktown Ave. Huntington Beach, CA 92646-2999	714/893-1381
FBI	Dan Koch	11000 Wilshire Blvd., Ste. 1700 Los Angeles, CA 90024	310/996-3720
California State Parks		8471 North Coast Highway Laguna Beach, CA 92651	949/497-1582
JTFB Fire Department	Tom McKinnon	4250 Constitution Los Alamitos, CA 90720	562/795-2144
Boeing Fire Department	Michael Nelson	2600 Westminster Blvd. Seal Beach, CA 90740	562/797-3188
Disneyland Fire Department		1313 S. Harbor Blvd. Anaheim, CA 92803-3232	714/781-4666
La Habra Heights Fire Department	John Nielsen	1245 N. Hacienda Road La Habra Heights, CA 90631	562/694-8283
Mercy Air	Melissa Schmier	P.O. Box 2532 Fontana, CA 92334	909/841-2820
Naval Weapons Station Fire Department	Larry Bach	Fire Division Code N23 800 Seal Beach Blvd. Seal Beach, CA 90740-5000	562/626-7005
Sanitation District of Orange County	Howard Lembke	10844 Ellis Ave. Fountain Valley, CA 92728	714/593-7270
United States Forest Service	James Nordenger	P.O. Box 897 Poway, CA 92074	858/695-0258
Care Ambulance	Bill Weston	1517 W. Braden Court Orange, CA 92868	714/828-7750
Doctor's Ambulance	Jim Ignacio	23091 Terra Drive Laguna Hills, CA 92653	949/951-8535 ext. 206
Emergency Ambulance	Jim Karras	3200 East Birch #A Brea, CA 92821	714/990-1742

City	Responsible Administrator	Address	Phone #
Medix Ambulance	Michael Dimas	26021 Pala Drive Mission Viejo, CA 92691	949/470-8921
Schaefer Ambulance		2215 South Bristol Ave. Santa Ana, CA 92704	714/545-8486
Los Angeles County Sheriff Aero Bureau		3235 Lakewood Blvd. Long Beach, CA 90808	562/421-2701
Signal Hill Police Department	Police	1800 East Hill Street Signal Hill, CA 90755	562/989-7200
Corona Fire Department	Fire	815 W. 6th Street Corona, CA 92882	909/736-2220
Americare Ambulance	Scott Smith	820 W. Lomita Blvd. Harbor City, CA 90710	310/835-9300
Camp Pendleton Fire	Fire Chief	P.O. Box 555211 Camp Pendleton, CA 92055	760/725-4321
DEA	Agent in Charge	1900 E. 1st St. Santa Ana, CA 92705	714/647-4901
Pacific Ambulance	Paul Scarborough	22541 Aspan St. #E Lake Forest CA 92630	949/470-2355
Saddleback College Police	Police Chief	28000 Marguerite Parkway. Mission Viejo, CA 92692	949/582-4500
Irvine Valley College	Police Chief	5500 Irvine Center Dr. Irvine, CA 92618	949/451-5200
Santa Ana School District Police	Police Chief	1601 E. Chestnut Ave. Santa Ana, CA 92701	714/558-5535
Department of Justice	Agent in Charge	874 Town & Country Road Orange, CA 92868	714/558-4183
Calif. Depart. of Corrections & Rehab.		829 Marlborough Ave. Riverside, CA 92507	916/324-6919
U.S. Immigration & Customs Enforcement	Agent in Charge	34 Civic Center Plaza Santa Ana, CA 92701	202/732-4200
OC Community Resources	Director	1770 N. Broadway, 4th Floor Santa Ana, CA 92706	714/480-2900

Use or disclosure of this Price Book is subject
to the restrictions on the cover page.

Signature Page

The Parties hereto have executed this Contract# MA-060-21010004 for purchases from Motorola Equipment and Services Price Book Agreement on the dates shown opposite their respective signatures below

Contractor*: Motorola Solutions, Inc.

By: _____ Title: MSSSI VP

Print Name: Micah Applewhite Date: 10/22/2020

Contractor*: Motorola Solutions, Inc.

By: _____ Title: Assistant Corporate Secretary

Print Name: Ryan Christensen Date: 10/20/2020

**If the contracting party is a corporation, (2) two signatures are required: (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer. The signature of one person alone is sufficient to bind a corporation, as long as he or she holds corporate offices in each of the two categories described above. For County purposes, proof of such dual office holding will be satisfied by having the individual sign the instrument twice, each time indicating his or her office that qualifies under the above described provision.*

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

County Of Orange

A political subdivision of the State of California

Sheriff-Coroner Department

By: _____ Title: _____

Print Name: _____ Date: _____

Approved by the Board of Supervisors: _____

Approved as to Form
Office of the County Counsel
Orange County, California

By: _____ 10/26/2020
Deputy

OCProcurement

Sole Source Request Form

Sole Source Bidsync # 060-C028614-EG-SS

SECTION II – DEPARTMENT INFORMATION (Complete in its entirety)

Department: Sheriff's Department		Date: 1/15/20
Vendor Name: Motorola Solutions Inc.		Sole Source BidSync Number: 060-C028614-EG-SS
Is the above named vendor a retired employee of the County of Orange? ☐ Yes ☒ No **If "Yes", review and Approval is required from CEO Human Resource Services prior to contract execution.**		
Contract Term (Dates): New Contract Straight Five (5) Years following Board approval and execution of signatures	Is Agreement Grant Funded? Percent Funded: Funding Source ☐ Yes ☒ No	Proprietary? ☒ Yes ☐ No
Contract Amount? Unlimited. A Purchase Order is issued against the MA.		Is this renewable? If yes, how many years? Non-Renewable. Single five year term.
Type of Request: ☒ New ☐ Multi-Year ☐ Renewal ☐ Amendment ☐ Increase		
Renewal Year: N/A		Did vendor provide a sole source affidavit? ☒ Yes ☐ No If yes, please attach
Board Date: TBD	ASR Number: TBD	If not scheduled to go to the Board explain why? Board date will be scheduled following review of Contract by Coco.
Does Contract include Non-Standard Language? If yes, explain in detail. Yes. Contractor will not accept or agree to County's terms and conditions. Contractor has prepared a Contract for the County to accept.		
Was Contract Approved by Risk Mgmt.? No.		Was Contract Approved by County Counsel? Contract will be forward to Coco for review and approval.
Were any exceptions taken? If yes, explain in detail. Contractor will not accept or agree to County's terms and conditions. Contractor has prepared a Contract for the County to accept.		
☒ DPA certifies that they have read and verified that the information is true and satisfies the sole source requirements listed in the County Contract Policy Manual.		
☐ Solicitation Exemption *(For purchases with special circumstances, and/or when it is determined to be in the best interest of the County.)*		

OCProcurement

Sole Source Request Form

Sole Source Bidsync # 060-C028614-EG-SS

SECTION III – SOLE SOURCE JUSTIFICATION

1. **Provide a description of the type of contract to be established.** *(For example: is the contract a commodity, service, human service, public works, or other – please explain.)* **Attach additional sheet if necessary.**
   This Contract is for the purchase and delivery of Motorola two-way radio transceivers (Base Station, Mobile, and Portable) including accessories and parts. Motorola is a proprietary manufacturer of radio equipment owned and in continuous operation by various agencies and cities within the County of Orange. All Motorola radio equipment is for the support of the countywide 800 Mhz. digital communications system.

2. **Provide a detailed description of services/commodities and how they will be used within the department. If this is an existing sole source, please provide some history of its origination, Board approvals, etc.** *(This information may be obtained from the scope of work prepared by the County and the vendor's proposal that provides a detailed description of the services/supplies.)* **Attach additional sheet if necessary.**
   The Motorola brand of radios are for use throughout the County of Orange supporting the system wide 800 Mhz. digital communications system, and is administered by the Sheriff-Coroner Department / Technology Division – Communications Bureau. The Communications Bureau is responsible for the coordination of the countywide 800 Mhz. digital communications system including the purchase, installation, inventory management of assets.

   The countywide 800 Mhz. digital communications system primary function is to provide public safety communications in support of the residents of the County of Orange and its surrounding communities.

   The previous Contract was approved by the Board 5/5/15 for a term of 5/21/15 through 5/20/20.

3. **Explain why the recommended vendor is <u>the only one capable of providing the required services and/or commodities</u>. How did you determine this to be a sole source and what specific steps did you take? Please list all sources that have been contacted and explain in detail why they cannot fulfill the County's requirements. Include vendor affidavit and/or other documentation which supports your sole source.** *(Responses will include strong programmatic and technological information that supports the claim that there is only one vendor that can provide the services and/or commodities. Your response will include information pertaining to any research that was conducted to establish that the vendor is a sole source, include information pertaining to discussions with other potential suppliers and why they were no longer being considered by the County.)* **Attach additional sheet if necessary.**

   Motorola, its radio systems are proprietary, and is the exclusive provider to the County of Orange for its countywide inter-agency and public safety radio system. Motorola's radio transceivers, accessories, and parts support the P25, 800 Mhz. radio network for the County of Orange. The full line of 800 Mhz. radio subscriber equipment contains programming information that is locked by a unique System Key, which is only issued to the County of Orange. All radio transceivers contain hardware and a System Key or Factory Software customized to the County of Orange. In addition, all Law and Fire agency subscriber equipment is equipped with hardware encryption that cannot be removed and is specific to the County's public safety platform.

   The County has made a financial commitment selecting Motorola for the building of the 800 Mhz. radio system. There are no producers of radio equipment outside of Motorola that can provide and meet the specifications of radios required by the County.

OCProcurement

Sole Source Request Form

Sole Source Bidsync # 060-C028614-EG-SS

4. **How does recommended vendor's prices or fees compare to the general market? Attach quotes for comparable services or supplies.** Attach additional sheet if necessary.

Motorola, as a proprietary contractor, does not have competitors where pricing can be compared or matched. There are no available radio products meeting the specifications of the Sheriff-Coroner Department.

5. **If the recommended vendor was not available, how would the County accomplish this particular task?** Attach additional sheet if necessary.

There are no alternative suppliers for the required radio equipment meeting the specifications of the County of Orange. The County cannot purchase equipment that is inferior, non-compatible to the existing system. Therefore, the County must continue to purchase from Motorola.

6. **Please provide vendor history – name change, litigation, judgments, aka, etc. for the last 7 years.**

Following a search of the internet, including Dun & Bradstreet there is no history of name change, litigation, or judgements that would exclude the County from do business with the contractor.

7. **If vendor is a retired, former employee, has the vendor previously been rehired as a contractor within the last three years?** ☐ Yes ☒ No

If yes, provide explanation/support for hiring the retired, former employee as a vendor and provide contract dates, scope of work, and total amounts paid under each contract.

8. **Explain (in detail) why a request for Solicitation Exemption is needed.** *(Only applicable for Solicitation Exemption)* Attach additional sheet if necessary.

N/A

OCProcurement

Sole Source Request Form

Sole Source Bidsync #060-C028614-IEG-SS

SECTION IV – AUTHOR/REQUESTOR

Signature:	Print Name:	Date:
	DEENA FULGHUM ON BEHALF OF DIRECTOR DAVE FONTNEAU	1/15/2020

SECTION V – CEO Human Resource Services APPROVAL (Review and approval is required when vendor is a Retired, Former Employee.)

Signature:	Print Name:	Date:

SECTION VI – DEPUTY PURCHASING AGENT CONCURRENCE

Signature:	Print Name:	Date:
Christina Reyes	Christina Reyes	6/17/20

SECTION VII – DEPARTMENT HEAD APPROVAL

Signature:	Print Name:	Date:
	Brian Wagt	1/21/2020

SECTION VIII – COUNTY PROCUREMENT OFFICE

Prior to execution of a contract, the County Procurement Officer or designee shall approve All Sole Source requests for Commodities that exceed $250,000, Capitol Assets and services exceeding $75,000, and All other Sole Source requests that require Board approval despite the amount. Approvals are obtained electronically through the County's online bidding system.

SOLICITATION EXEMPTION – CEO USE ONLY:

Board of Supervisor Notification Date:	
Comments:	
CPO: ☐Approved ☐Denied	CFO: ☐Approved ☐Denied
CPO Authorized Signature: Date:	CFO Authorized Signature: Date:

MOTOROLA SOLUTIONS

Motorola Solutions
10680 Treena Street, Suite 200
San Diego, CA 92131

Telephone: 858-442-3979
kim.caplan@motorolasolutions.com

May 18, 2020

Orange County Sheriff Communications
840 N. Eckhoff St. Suite 104
Orange, CA 92868
Attention: OCSD Technology Division

Subject: APX Radio and Infrastructure

OCSD Technology Division,

The features and capabilities included in this document are only available when a combination of ASTRO Radio Infrastructure and APX subscribers are deployed for a Public Safety LMR network. The features and capabilities listed will either not be available or severely degraded if another vendor's subscribers are deployed on an ASTRO Infrastructure or Motorola APX Subscribers on another vendor's infrastructure. It is further believed, based on current Competitive Intelligence, that these features are unique to the Motorola Solutions ASTRO platform (Infrastructure plus APX Subscribers).

- APX Radio Management
- Over-The-Air Rekeying (OTAR)
- Key Management Facility (KMF)
- Over-The-Air Programming (OTAP)
- End-To-End Encrypted Data
- Radio Authentication
- Full KMF (Key Management Facility) Redundancy
- Enhanced Conventional Channel Gateways (CCGW)
- Integrated Fault Management
- Advanced Messaging Solution (AMS)
- Alias Group Download
- User Login Alias Update
- APX Personnel Accountability Report
- Inbound Event Display
- Enhanced Data
- Dynamic GPS Location Updates
- Enhanced Geo Select with Static Geofence
- Location On PTT
- Dynamic System Resiliency (DSR)
- Edge Availability
- Talkgroup Text Messaging
- Intelligent Middleware Convergence
- High Availability Data
- Full Expandable Site Subsystem (ESS) Built-in Redundancy
- Paging Dispatch Features

- Dispatch Consoles with Dual-LAN Redundancy
- Intelligent Roaming
- ZoneWatch Monitoring
- Centralized Database of Subscriber and Infrastructure Configurations
- Open Application Interfaces
- Group Services
- Expandable Site Subsystem (ESS) Design
- Voice vs. Data Prioritized
- ISSI
- Motorola Advanced Crypto Engine for End-To-End Hardware
- Zone Core Protection
- Link Encryption and Authentication
- Intrusion Detection Sensing
- Secure Network Management
- Router Access Control Lists
- Secure Software Download
- Centralized Authentication and Authorization
- Centralized Logging
- Centralized System Backups
- NIST SP800-131A Compliance National Institute of Standards and Technology (NIS)

Sincerely,

MOTOROLA SOLUTIONS INC.

Kim Caplan

Kim Caplan

Senior Account Manager

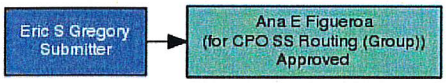
BidSync Perfscope

Welcome esgregory | Logout
Need assistance?
Contact us
or call 800-990-9339

Home Search Source Contracts Purchasing Tools

Release Bid Workflow

Name: Eric S Gregory
Phone: 714-834-4336
Email: egregory@ocsd.org
Status: Submitter Jun 17, 2020 3:23:26 PM PDT



Bid Information

Bid Number:
060C028614-EG-SS

Bid Title:
Motorola Solutions Inc. - Radio Price Book

Status

Status:
Approved

View Workflow History

Close

Questions? Contact a BidSync representative: 800-990-9339 or email: support@bidsync.com

Home | Bid Search | Bids | Orders | Tools | Support | Privacy | Logout

Copyright © 1999-2018 - BidSync - All rights reserved.

County Executive Office

S376

Memorandum

2020 DEC -9 AM 11:49
CLERK OF THE BOARD
BOARD OF SUPERVISORS

December 8, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.08 11:17:04 -08'00'

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: Sheriff-Coroner
Subject: Approve First Amendment to City of San Clemente Law Enforcement Services Agreement
Districts: 5

Reason for supplemental: The County Executive Office is requesting this Supplemental item be heard on the December 15, 2020, Board agenda in order for the amendment to become upon Board approval on December 15, 2020. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: _____
Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item S37G
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	5
SUBMITTING AGENCY/DEPARTMENT:	Sheriff-Coroner
DEPARTMENT HEAD REVIEW:	*Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Jeff Hallock (714) 647-1804 Jeff Puckett (949) 425-1818

RECEIVED
2020 DEC -9 AM 11:49
CLERK OF THE BOARD
BOARD OF SUPERVISORS

SUBJECT: Approve First Amendment to City of San Clemente Law Enforcement Services Agreement

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2020.12.08 11:16:36 -08'00'	Approved Agreement as to Form	Discussion 3 Votes Board Majority
CEO Signature	*Action* *County Counsel Signature*	

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: N/A **# of Positions:** N/A **Sole Source:** Yes
Current Fiscal Year Revenue: N/A
Funding Source: Other: 100% (City of San Clemente) **County Audit in last 3 years** No

Prior Board Action: 6/23/2020 #39, 6/25/2019 #33, 6/26/2018 #46, 6/27/2017 #45

RECOMMENDED ACTION(S):

Approve execution of the First Amendment to the agreement with the City of San Clemente for law enforcement services with an effective date of December 15, 2020.

SUMMARY:

Approval of the First Amendment to the agreement with the City of San Clemente will allow the Sheriff-Coroner Department to receive applications for the City's massage establishment licenses, investigate those applications and provide the investigations to the City's Manager.

BACKGROUND INFORMATION:

The City of San Clemente has been contracting with the County of Orange (County) for the Sheriff-Coroner Department (Sheriff) to provide law enforcement services since 1993. The table below notes when the Board of Supervisors (Board) approved the most recent agreements and each contract's annual adjustment amount.

Fiscal Year	Date Approved By Board/Adjusted	Amount
FY 2014-15	June 24, 2014	$12,430,310
FY 2014-15	Adjusted July 25, 2014 *	$12,446,648
FY 2015-16	June 23, 2015	$12,769,761
FY 2015-16	Adjusted April 29, 2016*	$12,952,563
FY 2016-17	June 28, 2016	$13,697,263
FY 2016-17	Adjusted December 9, 2016 *	$13,957,890
FY 2017-18	June 27, 2017	$14,373,619
FY 2018-19	June 26, 2018	$15,455,291
FY 2018-19	Adjusted January 30, 2019*	$15,483,229
FY 2019-20	June 25, 2019	$16,345,966
FY 2019-20	Adjusted February 7, 2020 *	$16,939,589
FY 2020-21	June 23, 2020	$17,145,464

* These amounts were adjusted as a result of ratified labor union contract negotiations.

This First Amendment to the Agreement with the City of San Clemente will be for the City's massage establishment licensing, whereas, Sheriff will receive these applications for the City of San Clemente and complete the investigations for such applications. Sheriff will then forward the investigations to the City Manager. The City Manager of San Clemente will determine whether to grant or deny the licenses and will issue the licenses or notify the applicants of denial. The First Amendment also provides that the County will receive all fees paid by applicants as payment for the costs incurred by Sheriff.

This First Amendment to the Agreement is submitted for approval less than 30 days prior to the start of the proposed First Amendment due to an extended negotiation period over the terms and conditions in the First Amendment, and the need to have the San Clemente City Council approval before presenting the First Amendment to the Board for approval. The City of San Clemente approved this First Amendment to the Agreement at its November 17, 2020, meeting.

FINANCIAL IMPACT:
N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – First Amendment to City of San Clemente Agreement
Attachment B – Redline Version of Agreement

FIRST AMENDMENT TO AGREEMENT

BETWEEN THE

CITY OF SAN CLEMENTE

AND THE

COUNTY OF ORANGE

THIS FIRST AMENDMENT TO AGREEMENT is entered into this First day of October 2020, which date is enumerated for purposes of reference only, by and between the CITY OF SAN CLEMENTE, hereinafter referred to as "CITY", and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY" to amend, effective December 15, 2020, that certain Agreement between the parties commencing July 1, 2020, hereinafter referred to as the "Agreement".

1. Effective December 15, 2020, Subsection C-8 is added to read as follows:

   "C-8. With respect to the licensing ordinances of CITY listed in Attachment H hereto, which is incorporated herein by this reference, SHERIFF shall receive applications for CITY licenses pursuant to said ordinances and complete investigations relating to such applications. Said investigations shall be forwarded to CITY Manager. COUNTY shall not provide any advisory, administrative, hearing or litigation attorney support or services related to licensing. COUNTY shall not provide any administrative or investigative services related to the licensing ordinances listed in Attachment H hereto, except the investigations relating to initial applications for which this subsection provides."

2. Effective December 15, 2020, Subsection F-2 of the Agreement is amended to read as follows:

   "F-2. Unless the level of service set forth in Attachment A is increased or decreased by mutual agreement of the parties, or CITY is required to pay

for increases as set forth in Subsection F-4, or the costs increase or decrease as a result of amendment of the Operations Agreement (Attachment C hereto and incorporated herein by this reference) in accordance with Subsection M-2, the Maximum Obligation of CITY for services, other than Licensing Services, set forth in Attachment A, of this Agreement to be provided by the COUNTY for the period July 1, 2020 through June 30, 2021 shall be $17,145,464 as set forth in Attachment B.

The overtime costs included in the Agreement are only an estimate. SHERIFF shall notify CITY of actual overtime worked during each fiscal year. If actual overtime worked is above or below budgeted amounts, billings will be adjusted accordingly at the end of the fiscal year. Actual overtime costs may exceed CITY's Maximum Obligation."

3. Effective December 15, 2020, Subsection F-9 is added to read as follows:

"F-9. As payment for the Licensing Services described in Subsection C-8 of this Agreement, COUNTY shall retain all fees paid by applicants for licenses pursuant to CITY ordinances listed in Attachment H hereto. Retention of said fees by COUNTY shall constitute payment in full to COUNTY for costs incurred by COUNTY in performing the functions related to licensing described in Subsection C-8; provided, however, that if any of said fees are waived or reduced by CITY, CITY shall pay to COUNTY the difference between the amount of fees retained by COUNTY and the fees that were set forth in the ordinances listed in Attachment H at the time this Agreement was executed. If CITY increases the fee schedule for the licensing ordinances set forth in Attachment H, either party shall have the right to seek amendment of this Agreement with respect to the division of the increased fees between CITY and COUNTY."

//

//

4. Effective December 15, 2020, Section Q – LICENSES SERVICES TO CITY, is added to read as follows:

"**Q. LICENSES SERVICES BY CITY:**

Upon receipt from SHERIFF of investigations of application for licenses referred to in Subsection C-8 of the Amendment, CITY Manager shall determine whether to grant or deny the licenses and will issue the licenses or notify the applicants of denial. CITY shall provide all attorney services related to the granting, denial, revocation and administration of said licenses and enforcement of CITY ordinances pertaining to said licenses."

5. All other provisions of the Agreement, to the extent that they are not in conflict with this FIRST AMENDMENT TO AGREEMENT, remain unchanged.

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

IN WITNESS WHEREOF, the parties have executed the FIRST AMENDMENT TO AGREEMENT in the County of Orange, State of California.

DATED:_____

ATTEST:_____
City Clerk

CITY OF SAN CLEMENTE

BY:_____
Mayor Pro Tem

APPROVED AS TO FORM:

BY:_____
City Attorney

DATED:_____

COUNTY OF ORANGE

BY:_____
Chairwoman of the Board of Supervisors
County of Orange, California

SIGNED AND CERTIFIED THAT A COPY OF THIS AGREEMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. Sec. 25103, Reso 79-1535
Attest:

_____
Robin Stieler
Clerk of the Board
County of Orange, California

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY:_____
Deputy

DATED: 11/19/20

ATTACHMENT H

CITY OF SAN CLEMENTE

LICENSING

ORDINANCE NO. 1704

MASSAGE ESTABLISHMENTS

FIRST AMENDMENT TO AGREEMENT

BETWEEN THE

CITY OF SAN CLEMENTE

AND THE

COUNTY OF ORANGE

THIS FIRST AMENDMENT TO AGREEMENT is entered into this First day of October ~~May~~ 2020, which date is enumerated for purposes of reference only, by and between the CITY OF SAN CLEMENTE, hereinafter referred to as "CITY", and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY". to amend, effective December 15, 2020, that certain Agreement between the parties commencing July 1, 2020, hereinafter referred to as the "Agreement".

~~**RECITALS:**~~

~~**WHEREAS,** CITY wishes to contract with COUNTY for law enforcement services; and~~

~~**WHEREAS,** COUNTY is agreeable to the rendering of such services, as authorized in Government Code Sections 51301, 54981 and 55632, on the terms and conditions hereinafter set forth,~~

~~**NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:**~~

//

//

//

//

//

//

//

//

DRAFT

TABLE OF CONTENTS

SECTION	PAGE
A. TERM	3
B. OPTIONAL TERMINATION OR EXTENSION	3
C. REGULAR SERVICES BY COUNTY	3
D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY	6
E. PATROL VIDEO SYSTEMS	8
F. PAYMENT	10
G. OWNERSHIP OF POLICE STATION	13
H. NOTICES	13
I. STATUS OF COUNTY	14
J. STATE AUDIT	14
K. ALTERATION OF TERMS	14
L. INDEMNIFICATION	14
M. OPERATIONS AGREEMENT	16
N. TRAFFIC VIOLATOR APPREHENSION PROGRAM	17
O. MOBILE DATA COMPUTERS	19
P. E-CITATION UNITS	21
SIGNATURE PAGE	23
Attachment A	Regular Services by County
Attachment B	Payment
Attachment C	Operations Agreement
Attachment D	County Billing Policy
Attachment E	Forfeited and Seized Asset Policy
Attachment F	TVAP Resolution
Attachment G	TVAP Form

//

//

DRAFT

~~**A. TERM:**~~

~~The term of this Agreement shall commence July 1, 2020 and terminate June 30, 2021, unless earlier terminated by either party or extended in the manner set forth herein.~~

~~**B. OPTIONAL TERMINATION OR EXTENSION:**~~

~~1. COUNTY or CITY may terminate this Agreement, without cause, upon one-hundred and eighty (180) days written notice to the other party.~~

~~2. If COUNTY and CITY have not entered into a written agreement by June 30, 2021 for COUNTY to provide to CITY, during all or part of the period between July 1, 2021 and June 30, 2022, law enforcement services similar to those specified herein, then SHERIFF, on behalf of COUNTY, and CITY's Manager, on behalf of CITY, are authorized to execute a written amendment to this Agreement that provides as follows and does not materially alter other terms of the Agreement: SHERIFF shall continue to provide to CITY all or a designated part of the law enforcement services specified herein, for a specified time period between July 1, 2021 and August 31, 2021, and CITY shall pay COUNTY the full costs of providing such services. Such full costs may be greater than those listed herein for the period July 1, 2020 through June 30, 2021. SHERIFF and CITY Manager shall file copies of any such amendments to this Agreement with the Clerk of COUNTY's Board of Supervisors and CITY's Clerk.~~

~~**C. REGULAR SERVICES BY COUNTY:**~~

~~1. COUNTY, through its Sheriff-Coroner and deputies, officers and employees, herein referred to as "SHERIFF", shall render to CITY law enforcement services as hereinafter provided. Such services shall include the enforcement of lawful State statutes and lawful municipal ordinances of CITY.~~

DRAFT

~~2. The night, day and evening patrol and supervisory shifts will be established by SHERIFF through the Chief of Police Services (Lieutenant) assigned to CITY, who will report directly to CITY Manager. Personnel of each shift may work varying and different times and may be deployed to other shifts when, in the opinion of SHERIFF and CITY Manager, the need arises. Any long-term shift deployment change will be reported to CITY's Council.~~

~~3. The level of service to be provided by COUNTY, for the period July 1, 2020 through June 30, 2021, is set forth in Attachment A and incorporated herein by this reference.~~

~~4. For any service listed in Attachment A of this Agreement that is provided to CITY at less than 100% of a full-time SHERIFF position, COUNTY retains the option to terminate such service in the event the other city or cities that contract for the balance of the time of the employee providing the service no longer pay(s) for such service and CITY does not request the Agreement be amended to provide for payment of 100% of the cost of the employee providing such service. The Maximum Obligation of CITY set forth in Subsection F-2 will be adjusted accordingly.~~

5. ~~All services contracted for in this Agreement may not be operational on the precise date specified in this Agreement. In those instances, SHERIFF shall notify CITY Manager of the date or dates such service or services are to be implemented. COUNTY shall reduce the monthly charges to CITY, based on the actual date of implementation of the service or services. Charges shall be reduced on the next monthly billing tendered in accordance with Subsection F-3 of this Agreement.~~

~~6. During emergencies, such as mutual aid situations, SHERIFF will attempt to leave in CITY the Lieutenant in charge of CITY Police Services. If SHERIFF determines that the Lieutenant is needed elsewhere, SHERIFF~~

~~**C. REGULAR SERVICES BY COUNTY:** (Continued)~~

~~7. will notify CITY's Manager within four (4) hours. SHERIFF will return the Lieutenant to CITY as soon as possible once the emergency situation is under control~~.

~~7 With the limitations set forth below, SHERIFF, on behalf of COUNTY, and CITY Manager, on behalf of CITY, are authorized to execute written amendments to this Agreement to increase or decrease the level of service set forth in Attachment A, when SHERIFF and CITY Manager mutually agree that such increase or decrease in the level of service is appropriate. Any such amendment to the Agreement shall concomitantly increase or decrease the cost of services payable by CITY set forth in Attachment B and incorporated herein by this reference and the Maximum Obligation of CITY set forth in Subsection F-2, in accordance with the current year's COUNTY law enforcement cost study. SHERIFF and CITY Manager shall file copies of any such amendments to this Agreement with the Clerk of COUNTY's Board of Supervisors and CITY's Clerk. Amendments to this Agreement executed by SHERIFF and CITY Manager may not, in the aggregate, increase or decrease the cost of services payable by CITY by more than one percent (1%) of the total cost originally set forth in Attachment B and the Maximum Obligation originally set forth in Subsection F-2.~~

~~Prior approval by COUNTY's Board of Supervisors and CITY's Council is required before execution of any amendment that brings the aggregate total of changes in costs payable by CITY to more than one percent (1%) of the total cost originally set forth in Attachment B and the Maximum Obligation originally set forth in Subsection F-2 of this Agreement.~~

1. Effective December 15, 2020, Subsection C-8 is added to read as follows:

"C-8. With respect to the licensing ordinances of CITY listed in Attachment H hereto, which is incorporated herein by this reference, SHERIFF shall

receive applications for CITY licenses pursuant to said ordinances and complete investigations relating to such applications. Said investigations shall be forwarded to CITY Manager. COUNTY shall not provide any advisory, administrative, hearing or litigation attorney support or services related to licensing. COUNTY shall not provide any administrative or investigative services related to the licensing ordinances listed in Attachment H hereto, except the investigations relating to initial applications for which this subsection provides."

/~~**ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:**~~

~~1. Enhanced services for events on CITY property. At the request of CITY, through its City Manager, SHERIFF may provide enhanced law enforcement services for functions, such as community events, conducted on property that is owned, leased or operated by CITY. SHERIFF shall determine personnel and equipment needed for such enhanced services. To the extent the services provided at such events are at a level greater than that specified in Attachment A of this Agreement, CITY shall reimburse COUNTY for such additional services, at an amount computed by SHERIFF, based on the current year's COUNTY law enforcement cost study. The cost of these enhanced services shall be in addition to the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement. SHERIFF shall bill CITY immediately after each such event.~~

~~2. Supplemental services for occasional events operated by private individuals and entities on non-CITY property. At the request of CITY, through its City Manager, and within the limitations set forth in this Subsection D-2, SHERIFF may provide supplemental law enforcement services to preserve the peace at special events or occurrences that occur on an occasional basis and are operated by private individuals or private entities on non-CITY property. SHERIFF shall determine personnel and equipment needed for~~

~~such supplemental services, and will provide such supplemental services only if SHERIFF is able to do so without reducing the normal and regular ongoing services that SHERIFF otherwise would provide to CITY pursuant to this Agreement. Such supplemental services shall be provided only by regularly appointed full-time peace officers, at rates of pay governed by a Memorandum of Understanding between COUNTY and the bargaining unit(s) representing the peace officers providing the services. Such supplemental services shall include only law enforcement duties and shall~~

~~**D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY:** (Continued)~~

~~not include services authorized to be provided by a private patrol operator, as defined in Section 7582.1 of the Business and Professions Code. Law enforcement support functions, including, but not limited to, clerical functions and forensic science services, may be performed by non-peace officer personnel if the services do not involve patrol or keeping the peace and are incidental to the provision of law enforcement services. CITY shall reimburse COUNTY its full, actual costs of providing such supplemental services at an amount computed by SHERIFF, based on the current year's COUNTY law enforcement cost study. The cost of these supplemental services shall be in addition to the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement. SHERIFF shall bill CITY immediately after each such event.~~

~~3. Supplemental services for events operated by public entities on non-CITY property. At the request of CITY, through its City Manager, and within the limitations set forth in this Subsection D-3, SHERIFF may provide supplemental law enforcement services to preserve the peace at special events or occurrences that occur on an occasional basis and are operated by public entities on non-CITY property. SHERIFF shall determine personnel and equipment needed for such supplemental services, and will~~

provide such supplemental services only if SHERIFF is able to do so without reducing services that SHERIFF otherwise would provide to CITY pursuant to this Agreement. CITY shall reimburse COUNTY its full, actual costs of providing such supplemental services at an amount computed by SHERIFF, based on the current year's COUNTY law enforcement cost study. The cost of these supplemental services shall be in addition to the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement. SHERIFF shall bill CITY immediately after each such event.

D. ENHANCED AND SUPPLEMENTAL SERVICES BY COUNTY: (Continued)

4. Notwithstanding the foregoing, CITY, through its permit process, may utilize the services of SHERIFF at events, for which CITY issues permits, that are operated by private individuals or entities or public entities. SHERIFF shall determine personnel and equipment needed for said events. If said events are in addition to the level of services listed in Attachment A of this Agreement, CITY shall reimburse COUNTY for such additional services at an amount computed by SHERIFF, based upon the current year's COUNTY law enforcement cost study. The cost of these services shall be in addition to the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement. SHERIFF shall bill City immediately after said services are rendered.

5. In accordance with Government Code Section 51350, COUNTY has adopted Board Resolution 89-1160 which identifies Countywide services, including but not limited to helicopter response. SHERIFF through this contract provides enhanced helicopter response services. The cost of enhanced helicopter response services is included in the cost of services set forth in Attachment B and in the Maximum Obligation of CITY set forth in Subsection F-2. COUNTY shall not charge any additional amounts for enhanced helicopter services after the cost of services set forth in

~~Attachment B and in the Maximum Obligation set forth in Subsection F-2 has been established without written notification to the CITY.~~

~~**E. PATROL VIDEO SYSTEMS:**~~

~~1. As part of the law enforcement services to be provided to CITY, COUNTY has provided, or will provide, patrol video systems (hereinafter called "PVS") that are or will be mounted in patrol vehicles designated by COUNTY for use within CITY service area.~~

~~/SHERIFF has the exclusive right to use said PVS for law enforcement services related to this Agreement.~~

~~2. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition and installation of Patrol Video Systems that are or will be mounted in patrol vehicles assigned to CITY, and b) recurring costs, as deemed necessary by COUNTY, including the costs of maintenance and contributions to a fund for replacement and upgrade of such PVS when they become functionally or technologically obsolete.~~

~~The costs to be paid by CITY for recurring costs, including maintenance and replacement/upgrade of PVS, are included in the costs set forth in Attachment B and the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement unless CITY has already paid such costs. CITY shall not be charged additional amounts for maintenance or replacement/upgrade of said PVS during the period July 1, 2020 through June 30, 2021.~~

~~3.~~1. ~~If, following the initial acquisition of PVS referenced above, CITY requires PVS for additional patrol cars designated for use in the CITY service area, COUNTY will purchase said additional PVS. Upon demand by COUNTY, CITY will pay to COUNTY a) the full costs of acquisition and installation of said additional PVS, and b) the full recurring costs for said PVS, as deemed necessary by COUNTY, including the costs of~~

~~maintenance, and contributions to a fund for replacement and upgrade of such PVS when they become functionally or technologically obsolete. Said costs related to additional PVS are not included in, and are in addition to, the costs set forth in Attachment B and the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement.~~

//

E. PATROL VIDEO SYSTEMS: (Continued)

~~4.~~2. ~~COUNTY will replace and/or upgrade PVS as needed. The costs of replacing/upgrading PVS shall be paid by COUNTY from the replacement/upgrade funds to be paid by CITY in accordance with the foregoing. CITY shall not be charged any additional charge to replace or upgrade PVS~~.

~~**F. PAYMENT:**~~

1. ~~Pursuant to Government Code Section 51350, CITY agrees to pay to COUNTY the full costs of performing the services mutually agreed upon in this Agreement. The costs of services include salaries, wages, benefits, mileage, services, supplies, equipment, and divisional, departmental and COUNTY General overhead~~.

2. Effective December 15, 2020, Subsection F-2 of the Agreement is amended to read as follows:

~~2.~~ "F-2. Unless the level of service set forth in Attachment A is increased or decreased by mutual agreement of the parties, or CITY is required to pay for increases as set forth in Subsection F-4, or the costs increase or decrease as a result of amendment of the Operations Agreement (Attachment C hereto and incorporated herein by this reference) in accordance with Subsection M-2, the Maximum Obligation of CITY for services, other than Licensing Services, set forth in Attachment A, of this Agreement to be provided by the COUNTY for the period

July 1, 2020 through June 30, 2021 shall be $17,145,464 as set forth in Attachment B.

The overtime costs included in the Agreement are only an estimate. SHERIFF shall notify CITY of actual overtime worked during each fiscal year. If actual overtime worked is above or below budgeted amounts, billings will be adjusted accordingly at the end of the fiscal year. Actual overtime costs may exceed CITY's Maximum Obligation."

//

~~**F. PAYMENT:** (Continued)~~

~~3. For services provided between July 1, 2020 and June 30, 2021, COUNTY shall invoice CITY, monthly, one-twelfth (1/12) of the Maximum Obligation of CITY. If a determination is made that increases described in Subsection F-4 must be paid, COUNTY thereafter shall include the pro-rata charges for such increases in its monthly invoices to CITY for the balance of the period July 1, 2020 and June 30, 2021. If this Agreement is extended pursuant to Subsection B-2, COUNTY shall invoice CITY thereafter for the full costs of the law enforcement services provided in the preceding month.~~

~~4a. At the time this Agreement is executed, there may be unresolved issues pertaining to potential changes in salaries and benefits for COUNTY employees. The costs of such potential increases are not included in the Fiscal Year 2020-21 cost set forth in Attachment B nor in the Fiscal Year 2020-21 Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement. If the changes result in the COUNTY incurring or becoming obligated to pay for increased costs for or on account of personnel whose costs are included in the calculations of costs charged to CITY hereunder, CITY shall pay COUNTY, in addition to the Maximum Obligation set forth in Subsection F-2 of this Agreement, the full costs of said increases to the extent such increases are attributable to work performed by such personnel~~

~~after July 1, 2020, and CITY's Maximum Obligation hereunder shall be deemed to have increased accordingly. CITY shall pay COUNTY in full for such increases on a pro-rata basis over the portion of the period between July 1, 2020 and June 30, 2021 remaining after COUNTY notifies CITY that increases are payable. If the changes result in the COUNTY incurring or becoming obligated to pay for decreased costs for or on account of personnel whose costs are included in the calculations of costs charged to CITY hereunder, COUNTY shall reduce the amount owed by the CITY to~~

~~**F. PAYMENT:** (Continued)~~

~~the extent such decreases are attributable to work performed by such personnel during the period July 1, 2020 through June 30, 2021, and CITY's Maximum Obligation hereunder shall be deemed to have decreased accordingly. COUNTY shall reduce required payment by CITY in full for such decreases on a pro-rata basis over the portion of the period between July 1, 2020 and June 30, 2021 remaining after COUNTY notifies CITY that the Maximum Obligation has decreased.~~

~~4b. If CITY is required to pay for increases as set forth in Subsection F-4a above, COUNTY, at the request of CITY will thereafter reduce the level of service to be provided to CITY as set forth in Attachment A of this Agreement to a level that will make the Maximum Obligation of CITY hereunder for the period July 1, 2020 through June 30, 2021 an amount specified by CITY that is equivalent to or higher or lower than the Maximum Obligation set forth in Subsection F-2 for said period at the time this Agreement originally was executed. The purpose of such adjustment of service levels will be to give CITY the option of keeping its Maximum Obligation hereunder at the pre-increase level or at any other higher or lower level specified by CITY. In the event of such reduction in level of service and adjustment of costs, the parties shall execute an amendment to~~

~~this Agreement so providing. Decisions about how to reduce the level of service provided to CITY shall be made by SHERIFF with the approval of CITY.~~

3. ~~5. CITY shall pay COUNTY in accordance with COUNTY Board of Supervisors' approved County Billing Policy, which is attached hereto as Attachment D and incorporated herein by this reference.~~

~~6. COUNTY shall charge CITY late payment penalties in accordance with County Billing Policy.~~

~~7. Narcotic asset forfeitures will be handled pursuant to Attachment E hereto, which is incorporated herein by this reference.~~

~~8. CITY shall reimburse COUNTY for the cost of any equipment that is removed from service before the unamortized value is used~~.

3. Effective December 15, 2020, Subsection F-9 is added to read as follows:

"F-9. As payment for the Licensing Services described in Subsection C-8 of this Agreement, COUNTY shall retain all fees paid by applicants for licenses pursuant to CITY ordinances listed in Attachment H hereto. Retention of said fees by COUNTY shall constitute payment in full to COUNTY for costs incurred by COUNTY in performing the functions related to licensing described in Subsection C-8; provided, however, that if any of said fees are waived or reduced by CITY, CITY shall pay to COUNTY the difference between the amount of fees retained by COUNTY and the fees that were set forth in the ordinances listed in Attachment H at the time this Agreement was executed. If CITY increases the fee schedule for the licensing ordinances set forth in Attachment H, either party shall have the right to seek amendment of this Agreement with respect to the division of the increased fees between CITY and COUNTY."

~~**G. OWNERSHIP OF POLICE STATION:**~~

DRAFT

~~CITY will retain title to the land and building used for the San Clemente Police Station. CITY agrees to lease the premises to COUNTY for no further consideration during the period of this Agreement. Said lease agreement has been memorialized in a separate document entitled "Lease Agreement" and dated November 6, 2012.~~

~~**H. NOTICES:**~~

~~1. Except for the notices provided for in Subsection 2 of this Section, all notices authorized or required by this Agreement shall be effective when written and deposited in the United States mail, first class postage prepaid and addressed as follows:~~

~~**CITY:** ATTN: CITY MANAGER~~
~~910 CALLE NEGOCIO~~
~~SAN CLEMENTE, CA 92673~~

~~**COUNTY:** ATTN: LAW ENFORCEMENT CONTRACT MANAGER~~
~~SHERIFF-CORONER DEPARTMENT~~
~~320 NORTH FLOWER STREET, SUITE 108~~
~~SANTA ANA, CA 92703~~

~~2. Termination notices shall be effective when written and deposited in the United States mail, certified, return receipt requested and addressed as above.~~

~~**I. STATUS OF COUNTY:**~~

~~COUNTY is, and at all times shall be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between CITY and COUNTY or any of COUNTY's agents or employees. COUNTY and its SHERIFF shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by COUNTY pursuant to this Agreement. COUNTY, its agents and employees~~

DRAFT

shall not be entitled to any rights or privileges of CITY employees and shall not be considered in any manner to be CITY employees.

J. STATE AUDIT:

Pursuant to Government Code Section 8546.7, CITY and COUNTY shall be subject to examination and audit by the State Auditor for a period of three (3) years after final payment by CITY to COUNTY under this Agreement. CITY and COUNTY shall retain all records relating to the performance of this Agreement for said three-year period, except that those records pertaining to any audit then in progress, or to any claim or litigation, shall be retained beyond said three-year period, until final resolution of said audit, claim or litigation.

K. ALTERATION OF TERMS:

This Agreement fully expresses all understanding of CITY and COUNTY with respect to the subject matter of this Agreement and shall constitute the total Agreement between the parties for these purposes. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed by duly authorized agents of both parties.

L. INDEMNIFICATION:

1. COUNTY, its officers, agents, employees, subcontractors and independent contractors shall not be deemed to have assumed any liability for the negligence or any other act or omission of CITY or any of its officers,

L. INDEMNIFICATION: (Continued)

agents, employees, subcontractors or independent contractors, or for any dangerous or defective condition of any public street or work or property of CITY, or for any illegality or unconstitutionality of CITY's municipal ordinances. CITY shall indemnify and hold harmless COUNTY and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors from any claim, demand or liability whatsoever based or asserted upon the condition of any public street or work or

~~property of CITY, or upon the illegality or unconstitutionality of any municipal ordinance of CITY that SHERIFF has enforced, or upon any act or omission of CITY, or its elected and appointed officials, officers, agents, employees, subcontractors or independent contractors related to this Agreement, including, but not limited to, any act or omission related to the maintenance or condition of any vehicle or motorcycle that is owned or possessed by CITY and used by COUNTY personnel in the performance of this Agreement, for property damage, bodily injury or death or any other element of damage of any kind or nature, and CITY shall defend, at its expense including attorney fees, and with counsel approved in writing by COUNTY, COUNTY and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors in any legal action or claim of any kind based or asserted upon such condition of public street or work or property, or illegality or unconstitutionality of a municipal ordinance, or alleged acts or omissions. If judgment is entered against CITY and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of either party, CITY and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.~~

~~**L. INDEMNIFICATION:** (Continued)~~

~~2. COUNTY shall indemnify and hold harmless CITY and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors from any claim, demand or liability whatsoever based or asserted upon any act or omission of COUNTY or its elected and appointed officials, officers, agents, employees, subcontractors or independent contractors related to this Agreement, for property damage, bodily injury or death or any other element of damage of any kind or nature, and COUNTY shall defend, at its expense, including attorney fees, and with~~

~~counsel approved in writing by CITY, CITY and its elected and appointed officials, officers, agents, employees, subcontractors and independent contractors in any legal action or claim of any kind based or asserted upon such alleged acts or omissions.~~

~~**M. OPERATIONS AGREEMENT:**~~

~~1. CITY's Manager and COUNTY's SHERIFF are authorized to execute, on behalf of CITY and COUNTY, respectively, the Operations Agreement attached hereto as Attachment C.~~

~~2. Within the limitations set forth below, SHERIFF, on behalf of COUNTY, and CITY Manager, on behalf of CITY, are authorized to execute written amendments to the Operations Agreement. Amendments may be executed by SHERIFF and CITY Manager without prior approval by CITY's Council and COUNTY's Board of Supervisors only if they pertain to the same subject matter as the original Operations Agreement attached hereto and do not, in the aggregate, increase or decrease the total costs of CITY or the total expenses of COUNTY under this Agreement by more than one percent (1%). Prior approval of CITY's Council and COUNTY's Board of Supervisors is necessary for any other amendment of the Operations Agreement. SHERIFF and CITY Manager shall file copies of any amendments to the~~

~~**M. OPERATIONS AGREEMENT:** (Continued)~~

~~Operations Agreement with the Clerk of COUNTY's Board of Supervisors and CITY's Clerk.~~

~~**N. TRAFFIC VIOLATOR APPREHENSION PROGRAM:**~~

~~1. COUNTY has established a Traffic Violator Apprehension Program ["the Program"], which is operated by SHERIFF, and is designed to reduce vehicle accidents caused by unlicensed drivers and drivers whose licenses are suspended and to educate the public about the requirements of the Vehicle Code and related safety issues with regard to driver licensing,~~

vehicle registration, vehicle operation, and vehicle parking. The Program operates throughout the unincorporated areas of the COUNTY and in the cities that contract with COUNTY for SHERIFF's law enforcement services, without regard to jurisdictional boundaries, because an area-wide approach to reduction of traffic accidents and driver education is most effective in preventing traffic accidents. In order for CITY to participate in the Program, CITY has adopted a fee pursuant to Vehicle Code Section 22850.5, in the amount and under the terms and conditions set forth in the resolution that is attached hereto as Attachment F and incorporated into this Agreement by reference [hereinafter called a "TVAP resolution"], and has directed that the revenue from such fee be used for the Program. CITY's participation in the Program may be terminated at any time by rescission or amendment of its TVAP resolution that is attached hereto as Attachment F. In the event CITY 1) amends said TVAP resolution, or rescinds said TVAP resolution and adopts a new TVAP resolution pertaining to the above-referenced fee and the Program, and 2) remains a participant in the Program thereafter, CITY's Manager, on behalf of CITY, and SHERIFF, on behalf of COUNTY, have authority to execute an amendment of this Agreement to substitute CITY's amended or new TVAP resolution for Attachment F hereto, as long as said

N. **TRAFFIC VIOLATOR APPREHENSION PROGRAM:** (Continued)

amendment to this Agreement does not materially change any other provision of this Agreement.

2. COUNTY will make available for review, at the request of CITY, all financial data related to the Program as may be requested by CITY.

3. Fee revenue generated by COUNTY and participating cities will be used to fund the following positions, which will be assigned to the Program:

- Ten one hundredths of one (0.10) Sergeant
  (8 hours per two-week pay period)

- One (1) Staff Specialist
  (80 hours per two-week pay period)
- One (1) Office Specialist
  (80 hours per two-week pay period)

4. Fee revenue generated by CITY may be used to reimburse CITY for expenditures for equipment and/or supplies directly in support of the Program. In order for an expenditure for equipment and/or supplies to be eligible for reimbursement, CITY shall submit a request for and obtain pre-approval of the expenditure by using the form as shown in Attachment G. The request shall be submitted within the budget schedule established by SHERIFF. SHERIFF shall approve the expenditure only if both of the following conditions are satisfied: 1) there are sufficient Program funds, attributable to revenue generated by CITY's fee, to pay for the requested purchase, and 2) CITY will use the equipment and/or supplies, during their entire useful life, only for purposes authorized by its TVAP resolution in effect at the time of purchase.

   In the event that CITY terminates its participation in the Program, CITY agrees that the equipment purchased by CITY and reimbursed by Program funds will continue to be used, during the remainder of its useful life,

N. **TRAFFIC VIOLATOR APPREHENSION PROGRAM:** (Continued)

exclusively for the purposes authorized by CITY's TVAP resolution in effect at the time of purchase.

5. In the event the fees adopted by COUNTY, CITY and other participating jurisdictions are not adequate to continue operation of the Program at the level at which it operated previously, COUNTY, at the option of CITY, will reduce the level of Program service to be provided to CITY or will continue to provide the existing level of Program services. COUNTY will charge CITY the cost of any Program operations that exceed the revenue generated by

~~fees. Such charges shall be in addition to the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement. The amount of any revenue shortfall charged to CITY will be determined, at the time the revenue shortfall is experienced, according to CITY's share of Program services rendered. In the event of a reduction in level of Program service, termination of Program service or adjustment of costs, the parties shall execute an amendment to this Agreement so providing. Decisions about how to reduce the level of Program service provided to CITY shall be made by SHERIFF with the approval of CITY.~~

~~**O. MOBILE DATA COMPUTERS:**~~

~~1. As part of the law enforcement services to be provided to CITY, COUNTY has provided, or will provide, mobile data computers (hereinafter called "MDCs") that are or will be mounted in patrol vehicles and motorcycles, designated by COUNTY for use within CITY limits.~~

~~2. SHERIFF has the exclusive right to use said MDCs for law enforcement services related to this Agreement.~~

~~3. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition and installation of MDCs that are or will be mounted in patrol vehicles and motorcycles assigned to CITY, and b) recurring costs, as deemed~~

~~**O. MOBILE DATA COMPUTERS:** (Continued)~~

~~necessary by COUNTY, including the costs of maintenance and contributions to a fund for replacement and upgrade of such MDCs when they become functionally or technologically obsolete.~~

~~The costs to be paid by CITY for recurring costs, including maintenance and replacement/upgrade of MDCs, are included in the costs set forth in Attachment B and the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement unless CITY has already paid such costs. CITY shall not be charged additional amounts for maintenance or~~

~~replacement/upgrade of said MDCs during the period July 1, 2020 through June 30, 2021.~~

~~4. If, following the initial acquisition of MDCs referenced above, CITY requires MDCs for additional patrol cars or motorcycles designated for use in the CITY, or for CITY's Emergency Operations Center, COUNTY will purchase said additional MDCs. Upon demand by COUNTY, CITY will pay to COUNTY a) the full costs of acquisition and installation of said additional MDCs, and b) the full recurring costs for said MDCs, as deemed necessary by COUNTY, including the costs of maintenance, and contributions to a fund for replacement and upgrade of such MDCs when they become functionally or technologically obsolete. Said costs related to additional MDCs are not included in, and are in addition to, the costs set forth in Attachment B and the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement.~~

~~5. COUNTY will replace and/or upgrade MDCs as needed. The costs of replacing/upgrading MDCs shall be paid by COUNTY from the replacement/upgrade funds to be paid by CITY in accordance with the foregoing. CITY shall not be charged any additional charge to replace or upgrade MDCs.~~

~~**P. E-CITATION UNITS:**~~

~~1. As part of the law enforcement services to be provided to CITY, COUNTY has provided, or will provide, E-Citation units designated by COUNTY for use within CITY limits.~~

~~2. SHERIFF has the exclusive right to use said E-Citation units for law enforcement services related to this Agreement.~~

~~3. CITY shall pay COUNTY the full costs to COUNTY of a) the acquisition of E-Citation units that are assigned to CITY, and b) recurring costs, as deemed necessary by COUNTY, including the costs of maintenance and~~

~~contributions to a fund for replacement and upgrade of such E-Citation units when they become functionally or technologically obsolete.~~

~~The costs to be paid by CITY for recurring costs, including maintenance and replacement/upgrade of E-Citation units, are included in the costs set forth in Attachment B and the Maximum Obligation of CITY set forth in Subsection F-2 of this Agreement unless CITY has already paid such costs. CITY shall not be charged additional amounts for maintenance or replacement/upgrade of said E-Citation units during the period July 1, 2020 through June 30, 2021.~~

~~4. If, following the initial acquisition of E-Citation units referenced above, CITY requires E-Citation units designated for use in CITY, COUNTY will purchase said additional E-Citation units. Upon demand by COUNTY, CITY will pay to COUNTY a) the full costs of acquisition of said additional E-Citation units, and b) the full recurring costs for said E-Citation units, as deemed necessary by COUNTY, including the costs of maintenance, and contributions to a fund for replacement and upgrade of such E-Citation units when they become functionally or technologically obsolete. Said costs related to additional E-Citation units are not included in, and are in addition to, the costs set forth in Attachment B and the Maximum Obligation of CITY~~

~~**P. E-CITATION UNITS:** (Continued)~~

~~set forth in Subsection F-2 of this Agreement.~~

~~5.~~1. ~~COUNTY will replace and/or upgrade E-Citation units as needed. The costs of replacing/upgrading E-Citation units shall be paid by COUNTY from the replacement/upgrade funds to be paid by CITY in accordance with the foregoing. CITY shall not be charged any additional charge to replace or upgrade E-Citation units.~~

4. Effective December 15, 2020, Section Q – LICENSES SERVICES TO CITY, is added to this Amendment to Agreement to read as follows:

"Q. LICENSES SERVICES BY CITY:

~~6.~~ Upon receipt from SHERIFF of investigations of application for licenses referred to in Subsection C-8 of the Amendment, CITY Manager shall determine whether to grant or deny the licenses and will issue the licenses or notify the applicants of denial. CITY shall provide all attorney services related to the granting, denial, revocation and administration of said licenses and enforcement of CITY ordinances pertaining to said licenses."

5. All other provisions of the Agreement, to the extent that they are not in conflict with this FIRST AMENDMENT TO AGREEMENT, remain unchanged.

//

//

//

//

//

IN WITNESS WHEREOF, the parties have executed the FIRST AMENDMENT TO AGREEMENT in the County of Orange, State of California.

DATED:_____

ATTEST:_____
City Clerk

CITY OF SAN CLEMENTE

BY:_____
Mayor Pro Tem

APPROVED AS TO FORM:

BY:_____
City Attorney

DATED:_____

COUNTY OF ORANGE

BY:_____
Chairwoman of the Board of Supervisors
County of Orange, California

SIGNED AND CERTIFIED THAT A COPY OF THIS AGREEMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD PER G.C. Sec. 25103, Reso 79-1535
Attest:

_____
Robin Stieler
Clerk of the Board
County of Orange, California

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY:_____
Deputy

DATED:_____

DRAFT

County Executive Office

Memorandum

RECEIVED
2020 DEC -9 PM 1:51
CLERK OF THE BOARD
BOARD OF SUPERVISORS

December 8, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.08 10:22:06 -08'00'

Subject: Exception to Rule 21

537H

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020 Board Hearing.

Agency: County Executive Office
Subject: Condemnation Actions, San Bernardino County, Prado Dam Project
Districts: All Districts

Reason for supplemental: In late August 2020, the United States Army Corps of Engineers (Corps) informed the Orange County Flood Control District (OCFCD) that in order to meet an April 30, 2021, Corps deadline to award the construction contract for the Santa Ana River Mainstem/Prado Dam Project spillway, OCFCD in conjunction with CEO-Real Estate must acquire flowage easements or other property interests in more than 45 properties expeditiously. In order to obtain possession within the timeframe set by the Corps, properties for which offers have been made in accordance with the required notice, need to be considered by the Board as soon as they are ready. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: _____

Chairwoman Michelle Steel, Supervisor, Second District

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item S37H
Clerks Use Only

SUPPLEMENTAL AGENDA ITEM

AGENDA STAFF REPORT

RECEIVED
2020 DEC -9 PM 1:51
CLERK OF THE BOARD
BOARD OF SUPERVISORS

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Orange County Flood Control District
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	County Executive Office
DEPARTMENT HEAD REVIEW:	*Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Thomas A. Miller (714) 834-6019 James Treadaway (714) 667-9700

SUBJECT: Condemnation Action, Riverside & San Bernardino Counties, Prado Dam Project

CEO CONCUR	**COUNTY COUNSEL REVIEW**	**CLERK OF THE BOARD**
Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2020.12.08 10:21:32 -08'00'	Approve Resolutions to Form	Public Hearing 2/3 Vote
CEO Signature	*Action* *County Counsel Signature*	

Budgeted: Yes | **Current Year Cost:** See Financial Impact Section | **Annual Cost:** N/A

Staffing Impact: No | **# of Positions:** | **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: Fund 404: 100% | **County Audit in last 3 years:** No

Prior Board Action: 10/06/2020 #4, 01/28/2003 #40, 12/07/1999 #49

RECOMMENDED ACTION(S):

Acting as the governing board of the Orange County Flood Control District:

1. Conduct public hearing.

2. At the conclusion of the hearing, make the following findings:

   a) Final Environmental Impact Report No. 583 was previously certified by the Board of Supervisors on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District as Lead Agency. Final Supplemental Environmental Impact

Statement/Environmental Impact Report No. 583 was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b) The circumstances of the Project are substantially the same as when Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 were certified, and Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c) Final Environmental Impact Report No. 583 and Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d) All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

3. At the conclusion of the hearing, adopt the Resolutions of Necessity attached as Attachments E through O to this Agenda Staff Report, which include the above-described CEQA findings and also the findings required by the California Eminent Domain Law for adoption of a Resolution of Necessity, and which direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the Orange County Flood Control District, to initiate condemnation proceedings to condemn the interests in real property as described in the attached Resolutions of Necessity.

4. At the conclusion of the hearing, direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber and transfer funds to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount as described in the Resolutions of Necessity; and to be made as one or more deposits of estimated

compensation in the condemnation proceedings; and to encumber such additional funds, and to transfer funds as may be requested by County Counsel, and if necessary to satisfy any court orders for higher deposits or payment of greater compensation, or as necessary to pay for title insurance and other fees and costs in connection with the acquisition of the Subject Property Interests pursuant to each Resolution of Necessity

SUMMARY:

Conducting a public hearing and considering adoption of Resolutions of Necessity that allow the Orange County Flood Control District to acquire property for the Santa Ana River Mainstem/Prado Dam Project will provide protection to the public from flood and storm waters from the potential effects of a 190-year flood/storm event.

BACKGROUND INFORMATION:

On December 7, 1999, the Board of Supervisors (Board) for the Orange County Flood Control District (District) authorized the initiation of the Prado Dam Project Real Property Acquisition Program. On January 28, 2003, your Board authorized the execution of a Project Cooperation Agreement and Second Modification to the Local Cooperation Agreement for the Santa Ana River Mainstem Project, and on October 6, 2020 your Board authorized Amendment Number 1 to the Project Cooperation Agreement with the Recommended Actions including authorizing the Director of OC Public Works or designee to execute ancillary documents or Relocation Agreements approved by County Counsel not to exceed $1Million per utility or property owner relocation need per fiscal year. The Project Cooperation Agreement requires the local sponsors of the Santa Ana River Mainstem Project, including the District, to acquire real property interests and perform relocation/protection of utilities, streets and highways as necessary for construction and related revised flood control operations.

The recommended action, adoption of the proposed Resolutions of Necessity (Resolutions), would find and declare it to be necessary to institute eminent domain proceedings to acquire the real property interests described below, which are located in the Counties of Riverside and San Bernardino, for the District's Santa Ana River Mainstem/Prado Dam Project (Project), which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, and find and declare that the public interest and necessity require the Project for the purpose of controlling flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event. In particular, the recommended action would find and declare that it is necessary for the District to acquire permanent flowage easement interests in the Project Parcel Numbers described more fully in the Resolution of Necessity (Subject Property Interests), in order to meet the deadline of the United States Army Corps of Engineers (Corps) to award the contract for construction of the Project's spillway in 2021. If the Corps' schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. The Subject Property Interests are necessary for the Project, in order to provide sufficient protection from storm events and flooding to those downstream from the Prado Dam and because the area of the Subject Property Interests will be exposed to greater risk or frequency of inundation as a result of the Prado Dam's increased reservoir capacity once the spillway is increased in height.

A more detailed description of the intended public use of, and necessity for, these acquisitions is contained in the accompanying OC Public Works Memoranda, attached hereto as Attachment B, which is incorporated herein by this reference and that provides substantial information supporting the requested findings contained in the proposed Resolutions. The information presented in this Agenda Staff Report and in that Memoranda are legally sufficient to show that the public interest and necessity require the Project for the purposes specified by the Orange County Flood Control Act (California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. sections 36-1 et seq.) (Act), including, but not limited to, the control of flood and storm waters. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses described herein and in the accompanying OC Public Works Memoranda under the California Constitution and the California Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5 and the Act.

Accordingly, County Counsel and OC Public Works/Infrastructure Programs/Flood Programs request your Board, acting in its capacity as the governing Board of the District, to adopt the proposed Resolutions to authorize and direct County Counsel and/or outside eminent domain counsel, the law firms of Bergman Dacey Goldsmith, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to file and pursue proceedings to condemn and acquire the Subject Property Interests, which are more particularly described in the proposed Resolutions of Necessity attached as Exhibits E through O.

Although the Subject Property Interests are located in the Counties Riverside and San Bernardino, they are within the reach of the District's extraterritorial power of eminent domain pursuant to Sections 2 and 16 of the Act.

To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the District's Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

COMPLIANCE WITH CEQA:

The acquisition of property is a necessarily included element of the project considered in Final EIR No. 583, certified by the Board of Supervisors on November 28, 1989, and Final Supplemental EIS/EIR No. 583, certified by the Orange County Planning Commission on December 19, 2001, which adequately addressed the effects of the proposed project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known; therefore no further environmental review is required.

FINANCIAL IMPACT:

Appropriations are included in the Flood Fund 404 FY 2020-21 Budget for issuance of a one-time cost of $1,045,100 in the amounts and from the Fund Nos listed below to be made upon Board approval of the proposed recommended actions.:

	Property Owner Name	Amount	JCN	Account Coding
1	de Steuben	$81,300	ESP2172	404-080-404-LS88-4100-ESP2172
2	Pires	$75,000	ESP2104	404-080-404-LS12-4100-ESP2104
3	Ogier	$125,000	ESP2141	404-080-404-LS50-4100-ESP2141
4	Westerlin	$104,000	ESP2281	404-080-404-L0S4-4100-ESP2281
5	Truc Lam Buddhist	$44,700	ESP2301	404-080-404-L2S4-4100-ESP2301
6	Zhou	$78,200	ESP2160	404-080-404-LS76-4100-ESP2160
7	Wibbens	$98,400	ESP2148	404-080-404-LS57-4100-ESP2148
8	Suwan	$137,600	ESP2146	404-080-404-LS55-4100-ESP2146
9	Brumfield	$111,600	ESP2130	404-080-404-LS39-4100-ESP2130
10	Tadiparthy	$94,800	ESP2161	404-080-404-LS77-4100-ESP2161
11	Lepper	$94,500	ESP2162	404-080-404-LS78-4100-ESP2162
	Grand Total	**$1,045,100**		

Additional presently unknown costs may also include payments for title fees and other costs upon recordation, as well as the potential for other required payments that a court may order be deposited and/or paid in the condemnation actions. Any unknown costs will be absorbed within the existing appropriation of Flood Fund 404.

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Treasurer-Tax Collector
OC Public Works

ATTACHMENT(S):

Attachment A - Code Provisions
Attachment B - OC Public Works Memorandums
Attachment C - Real Estate Acquisition Questionnaire
Attachment D - Final Supplemental Environmental Impact Statement and Report No. 583

Attachment E - Resolution of Necessity (E01PD-33-017 and 33-018, de Steuben)
Attachment F - Resolution of Necessity (E01PD-40-063, Pires)
Attachment G - Resolution of Necessity (E01PD-21-005, Ogier)
Attachment H - Resolution of Necessity (E01PD-21-048, Westerlin)
Attachment I - Resolution of Necessity (E01PD-21-111, Truc Lam Buddhist Center)
Attachment J- Resolution of Necessity (E01PD-27-102, Zhou)
Attachment K - Resolution of Necessity (E01PD-27-101, Wibbens)
Attachment L - Resolution of Necessity (E01PD-27-098, Suwan)
Attachment M - Resolution of Necessity (E01PD-27-097, Brumfield)
Attachment N - Resolution of Necessity (E01PD-27-096, Tadiparthy)
Attachment O- Resolution of Necessity (E01PD-27-095, Lepper)
Attachment P- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-33-017 and 33-018, de Steuben)
Attachment Q- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-40-063, Pires)
Attachment R- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-21-005, Ogier)
Attachment S- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-21-048, Westerlin)
Attachment T- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-21-111, Truc Lam Buddhist Center)
Attachment U- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-102, Zhou)
Attachment V- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-101, Wibbens)
Attachment W- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-098, Suwan)
Attachment X- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-097, Brumfield)
Attachment Y- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-096, Tadiparthy)
Attachment Z- Notice of Intent to Consider Adoption of a Resolution of Necessity (E01PD-27-095, Lepper)

O.C. Flood Control Act provisions

WATER -- UNCODIFIED ACTS
Orange County Flood Control Act (1927 ch 723)

§ 2. Purposes of Act; Powers of district

(a) The purposes of this act are to provide for the control of the flood and storm waters of the district, and the flood and storm waters of streams that have their source outside of the district, but which flow into the district, and to conserve those waters for beneficial and useful purposes by spreading, storing, retaining, and causing them to percolate into the soil within the district, or outside the district, or to save or conserve in any manner all or any of those waters and protect from damage from those flood or storm waters, the harbors, waterways, public highways, and property in the district.

(b) The **Orange County Flood Control District** is hereby declared to be a body corporate and politic and has all of the following powers:

(1) To have perpetual succession.

(2) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(3) To adopt a seal and alter it at pleasure.

(4) To take by grant, purchase, gift, devise, or lease, and to hold, use, enjoy, and to sell, lease, exchange, or dispose of real or personal property of every kind, within or outside the district, necessary to the full exercise of its powers.

(5) To acquire, or contract to acquire, lands, rights-of-way, easements, privileges and property of every kind, and to construct, maintain, and operate any and all works or improvements within or outside the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as authorized in this act.

(6) To exercise the right of **eminent domain**, either within or outside the district, to take any property necessary to carry out any of the objects or purposes of this act.

(7) To incur indebtedness, and to issue bonds in the manner provided in this act.

(8) To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district in the manner provided in this act.

(9) To make contracts, and to employ labor, and to do all acts necessary for the full exercise of the powers of the district, or any of the officers thereof, by this act.

(10) To grant or otherwise convey to counties, cities and counties, cities, or towns,

easements for street and highway purposes, over, along, in, through, across, or under any real property owned by the district.

(11) To remove, carry away, and dispose of any rubbish, trash, debris, or other inconvenient matter that may be dislodged, transported, conveyed, or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of the district or elsewhere.

(12) To sell or dispose of any property, or any interest therein, or lease or rent any property, or any interest therein, whenever, in the judgment of the board of supervisors, the property, or any interest therein or part thereof, is not required for the purposes of the district, or property may be leased, or included in community leases embracing adjoining lands, for any purpose, including leases for mining or extracting oil, gas, hydrocarbon substances, or other minerals, without interfering with the use of the property for the purposes of the district. If it appears that wells drilled upon private lands are draining or may drain oil, gas, or other hydrocarbon substances from lands owned by the district and operations for the production of oil, gas, or other hydrocarbons on land owned by the district might interfere with the use of that land for the purposes of the district, the district may enter into agreements with the owners or operators of the wells for the payment of compensation to the district for drainage in lieu of drilling offset wells upon the land owned by the district, and to pay any compensation received into the general fund of the district and use the compensation for the purposes of this act. However, nothing in this section authorizes the board of supervisors, or other governing body of the district, or any officer thereof, to sell, lease, or otherwise dispose of any water, water right, reservoir space, or storage capacity, or any interest or space therein, except as provided by Section 17. The district may also grant to the United States of America, or any agency thereof authorized to accept and pay for land which lies within any channel, dam, or reservoir site, improved or constructed, in whole or in part, with federal funds, upon the payment to the district of the actual cost thereof as determined by the board of supervisors of the district. The district, by and through its board of supervisors, may warrant and guarantee the title of all lands so transferred to the United States under this section.

(13) Pursuant to paragraph (12), to lease or rent any property, or any interest therein or part thereof, if the board adopts a resolution that meets all of the following requirements, as applicable:

(A) Includes all of the following findings, based on evidence set forth in the minutes of the meeting:

(i) The property, or any interest therein or part thereof, is no longer or not yet needed for district uses and purposes, including, but not limited to, flood protection and water conservation, and the lease or rental use will not conflict with the uses and purposes of the district.

(ii) The lease or rental is consistent with the city or county general plan, specific plan, or other plans or policies adopted for the area within which the property is located, including any plans and regulations adopted pursuant to Chapter 4 (commencing with Section 8400) of Part 2 of Division 5 of the Water Code.

(iii) The lease or rental is consistent with city or county zoning ordinances, regulations, and policies adopted for the area within which the property is located.

(iv) The lease or rental is consistent with the city or county building regulations and policies adopted for the area within which the property is located.

(B) In the case of a rental, specifies the rental period and the approximate date on which the property will be needed for the uses and purposes of the district.

(C) For any property acquired by the district through **eminent domain**, declares that the property was acquired through **eminent domain** in accordance with Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

(14) To monitor, test, or inspect drainage, flood, storm, or other waters within the district for the purpose of recording, determining, and reporting the quality of the waters to appropriate regional water quality control boards.

(15) To assist the County of Orange and any city within the county in emergency operations to control or mitigate the effect of titles, waves, and ocean currents on the Orange County shoreline.

(16) To carry on technical and other investigations, examinations, or tests of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, control of floods, use of water, water quality, nuisance, pollution, waste, and contamination of water, both within and outside the district.

(17) To regulate, prohibit, or control the discharge of pollutants, waste, or any other material into the district's facilities by requiring dischargers to obtain a permit from the district prior to any discharge and by prohibiting the discharge of pollutants or other material which does or may cause a nuisance into the district's facilities without first obtaining a permit from the district, but, if a federal permit has been issued for the discharge, a permit may be issued by the district at no fee to the discharger; except as provided in this act, to require a fee to be collected prior to the issuance of a discharge permit, if the amount of the fee does not exceed the cost of issuing the permit; to require all permitholders to indemnify the district from any and all damages, penalties, or other expenses imposed on or required of the district by state or federal agencies due to any discharge by the permitholders into the district facilities.

(18) To establish compliance with any federal, state, or local law, order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material into the district's facilities. For this purpose, any authorized representative of the district, upon presentation of his or her credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, has the right of entry to any premises on which a water pollution, waste, or contamination source is located for the purpose of inspecting the source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.

Code of Civil Procedure provisions

Code of Civil Procedure § 1230.010. Short title

This title shall be known and may be cited as the Eminent Domain Law.

Code of Civil Procedure § 1240.010. Exercise of power for public use

The power of eminent domain may be exercised to acquire property only for a public use. Where the Legislature provides by statute that a use, purpose, object, or function is one for which the power of eminent domain may be exercised, such action is deemed to be a declaration by the Legislature that such use, purpose, object, or function is a public use.

Code of Civil Procedure § 1240.110. Acquisition of certain interests in property; enumeration; restriction

(a) Except to the extent limited by statute, any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire any interest in property necessary for that use including, but not limited to, submerged lands, rights of any nature in water, subsurface rights, airspace rights, flowage or flooding easements, aircraft noise or operation easements, right of temporary occupancy, public utility facilities and franchises, and franchises to collect tolls on a bridge or highway.

(b) Where a statute authorizes the acquisition by eminent domain only of specified interests in or types of property, this section does not expand the scope of the authority so granted.

Code of Civil Procedure § 1240.510. Authority; reference in complaint and resolution

Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the proposed use will not unreasonably interfere with or impair the continuance of the public use as it then exists or may reasonably be expected to exist in the future. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

Code of Civil Procedure § 1240.610. Authority; reference in complaint and resolution

Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

Code of Civil Procedure § 1245.235. Notice and hearing; contents; conduct

(a) The governing body of the public entity may adopt a resolution of necessity only after the governing body has given each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030.

(b) The notice required by subdivision (a) shall be sent by first-class mail to each person described in subdivision (a) and shall state all of the following:

(1) The intent of the governing body to adopt the resolution.
(2) The right of such person to appear and be heard on the matters referred to in Section 1240.030.
(3) Failure to file a written request to appear and be heard within 15 days after the notice was mailed will result in waiver of the right to appear and be heard.

(c) The governing body, or a committee of not less than 11 members thereof designated by the governing body if the governing body has more than 40 members, shall hold a hearing at which all persons described in subdivision (a) who filed a written request within the time specified in the notice may appear and be heard on the matters referred to in Section 1240.030. Such a committee shall be reasonably representative of the various geographical areas within the public entity's jurisdiction. The governing body need not give an opportunity to appear and be heard to any person who fails to so file a written request within the time specified in the notice. If a committee is designated by the governing body pursuant to this subdivision to hold the hearing, the committee, subsequent to the hearing, shall provide the governing body and any person described in subdivision (a) who has appeared before the committee with a written summary of the hearing and a written recommendation

as to whether to adopt the resolution of necessity. Any person described in subdivision (a) who has appeared before the committee shall also be given an opportunity to appear and be heard before the governing body on the matters referred to in Section 1240.030.

(d) Notwithstanding subdivision (b), the governing body may satisfy the requirements of this section through any other procedure that has given each person described in subdivision (a) reasonable written personal notice and a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030.

Code of Civil Procedure § 1245.240. Vote required for adoption

Unless a greater vote is required by statute, charter, or ordinance, the resolution shall be adopted by a vote of two-thirds of all the members of the governing body of the public entity.

Government Code provisions

Government Code § 25350.5. Power of eminent domain

The board of supervisors of any county may acquire by eminent domain any property necessary to carry out any of the powers or functions of the county.

Government Code § 7267.1. Acquisition by negotiation; appraisal

(a) The public entity shall make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during his or her inspection of the property. However, the public entity may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

Government Code § 7267.2. Just compensation; property offered for sale by owner

(a)(1) Prior to adopting a resolution of necessity pursuant to Section 1245.230 of the Code of Civil Procedure and initiating negotiations for the acquisition of real property, the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. The amount shall not be less than the public entity's approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property.

(2) At the time of making the offer described in paragraph (1), the public entity shall provide the property owner with an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

(b) The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. The written statement and summary shall contain detail sufficient to indicate clearly the basis for the offer, including, but not limited to, all of the following information:

(1) The date of valuation, highest and best use, and applicable zoning of property.
(2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value.
(3) If appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated and shall include the calculations and narrative explanation supporting the compensation, including any offsetting benefits.

(c) Where the property involved is owner-occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. The public entity may, but is not required to, satisfy the written statement, summary, and review requirements of this section by providing the owner a copy of the appraisal on which the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount that it believes to be just compensation therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price that is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), “offered for sale” means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.
(2) Offered for sale to the general public at an advertised or published specified price, set no more than six months prior to, and still available at, the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.

Government Code § 65402. Acquisition or disposition of property; construction of buildings; requirements before action

(a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for

street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.
Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 27-097

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorenson, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Jacqueline Brumfield, which real property is located at 8614 Kendra Ln. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.20 acres) is referred to by the District as Project Parcel No. E01PD-27-097, and which covers Riverside County Assessor's Parcel No. 130-681-009 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and

1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. **The Public interest and necessity require the Project.**

   The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

   Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. **The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.**

   Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. **The Subject Property Interests are necessary for the Project.**

   If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. **The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.**

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 18, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond and pursuant to California code 65402b the project is deemed to conform to the City's General Plan after a 40-day window which occurred on November 18, 2016.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $111,600, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS39-4100, Job No ESP2130.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Burke, Williams & Sorenson, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 33-017 & 33-018

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorenson, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Kurt R. de Steuben and Adele M. de Steuben (33-017 and 33-018), which real property is located at 8230 Grapewin St. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (.20 acre) is referred to by the District as Project Parcel No. E01PD-33-017 and 33-018, and which covers Riverside County Assessor's Parcel No. 130-070-011 and 130-070-012 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:

As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. **The Public interest and necessity require the Project.**

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. **The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.**

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. **The Subject Property Interests are necessary for the Project.**

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. **The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.**

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 19, 2020 and continue. Real Estate staff followed up 11/20/20 and 12/03/2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on October 4, 2020, that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $81,300, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS88-4100, Job No ESP2172.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Burke, Williams & Sorenson LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 27-095

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Kurtis J. and Kimberly L. Lepper, which real property is located at 8586 Kendra Ln. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.14 acres) is referred to by the District as Project Parcel No. E01PD-27-095, and which covers Riverside County Assessor's Parcel No. 130-681-007 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public

Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. **The Public interest and necessity require the Project.**

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. **The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.**

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. **The Subject Property Interests are necessary for the Project.**

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. **The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.**

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner.

Negotiations with the owner initially commenced on November 19, 2020 and continue. Real Estate staff followed up December 3, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

7. A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond and pursuant to California code 65402b the project is deemed to conform to the City's General Plan after a 40-day window which occurred on December 9, 2020.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $94,500, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS78-4100, Job No ESP2162.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Murphy & Evertz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 21-005

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Clinton Ogier, which real property is located at 4015 Bluff St. in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.31 acres) is referred to by the District as Project Parcel No. E01PD-21-005, and which covers Riverside County Assessor's Parcel No. 121-060-003 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with

those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 18, 2020 and continue. Real Estate staff followed up on 11/19 and 12/03/20. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Norco ("City") as required by the Code. The City responded on November 17, 2016 that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $125,00, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS50-4100, Job No ESP2141.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Murphy & Everetz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 40-063

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorenson, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Joao S. Pires and Maria De Lourdes Pires Trustees of the Joao S. Pires and Maria De Lourdes Pires Family Trust (40-063), dated September 24, 2008, which real property is located at 14739 Chandler St. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (14,272 Square Feet) is referred to by the District as Project Parcel No. E01PD-40-063, and which covers Riverside County Assessor's Parcel No. 144-100-018 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 17, 2020 and continue. In order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on June 22, 2016 that the Project is not consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $75,00, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS12-4100, Job No ESP2104.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Burke, Williams & Sorenson LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 27-098

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorenson, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Jaraschai Suwan and Sudaluck Suwan, which real property is located at 8628 Kendra Ln. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.27 acres) is referred to by the District as Project Parcel No. E01PD-27-098, and which covers Riverside County Assessor's Parcel No. 130-671-001 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with

those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 19, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond and pursuant to California code 65402b the project is deemed to conform to the City's General Plan after a 40-day window which occurred on November 18, 2016.

D. Other Considerations:

1. **Compliance with County's Hazardous Materials Assessment (HMA) Policy.**

2. **Funds.**

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $137,600, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS55-4100, Job No ESP2146.

3. **Relocation Assistance.**

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Burke, Williams & Sorenson, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 27-096

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Burke, Williams & Sorenson, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Ravindranath and Durga Tadiparthy, which real property is located at 8600 Kendra Ln. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.12 acres) is referred to by the District as Project Parcel No. E01PD-27-096, and which covers Riverside County Assessor's Parcel No. 130-681-008 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with

those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. **The Public interest and necessity require the Project.**

   The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

   Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. **The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.**

   Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. **The Subject Property Interests are necessary for the Project.**

   If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. **The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.**

   In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 20, 2020 and continue. Real Estate staff followed up December 4, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. **Compliance with CEQA.**

   Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

   A. **The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.**

   B. **Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.**

   C. **All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.**

   Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. **General Plan (Government Code Section 65402).**

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on November 28, 2016 that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $94,800, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS77-4100, Job No ESP2161.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Burke, Williams & Sorenson, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 21-111

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Truc Lam Buddhist Center, a non-profit organization, which real property is located in the City of Corona in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.11 acre) is referred to by the District as Project Parcel No. E01PD-21-111, and which covers Riverside County Assessor's Parcel No. 121-050-031 and 121-050-032 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with

those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 18, 2020 and continue. Real Estate staff followed up 11/19/20, 11/30/20, and 12/01/20. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Corona ("City") as required by the Code. The City did not respond and pursuant to California code 65402b the project is deemed to conform to the City of Corona General Plan after a 40-day window which occurred on October 5, 2020.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $44,700, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-L2S4-4100, Job No ESP2301.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Murphy & Everetz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 21-048

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Steven M. Westerlin, which real property is located at 2563 Wagon Wheel Rd. in the City of Norco in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.21 acres) is referred to by the District as Project Parcel No. E01PD-21-048, and which covers Riverside County Assessor's Parcel No. 121-301-005 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with

those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 19, 2020 and continue. In order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

The project is in conformance with the General Plan of the City of Chino pursuant to Government Code Section 65402.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $104,00, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-L0S4-4100, Job No ESP2281.

3. Relocation Assistance.

The District does not anticipate that the acquisition of this Parcel will require relocation assistance. The District has not yet assigned a Relocation Consultant to interview the tenant and determine their eligibility for benefits, because no offer has been accepted. If a Relocation Company is assigned, the relocation consultant will explain the Relocation Assistance Program to the Owner and any tenants or occupants remaining onsite ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Murphy & Everetz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 27-101

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Richard S. Wibbens And Michele A. Wibbens, Trustees of the Wibbens Family Trust Dated March 25, 2014, which real property is located at 8670 Kendra Ln. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.26 acres) is referred to by the District as Project Parcel No. E01PD-27-101, and which covers Riverside County Assessor's Parcel No. 130-671-004 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.)

requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owner, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owner. Negotiations with the owner initially commenced on November 18, 2020 and continue. Real Estate staff followed up November 30, 2020 and December 1, 2020. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City did not respond and pursuant to California code 65402b the project is deemed to conform to the City's General Plan after a 40-day window which occurred on November 18, 2016.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $98,400, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS57-4100, Job No ESP2148.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Murphy & Everetz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

County Administration South
601 North Ross Street
Santa Ana, CA 92701

P.O. Box 4048
Santa Ana, CA 92702

(714) 667-8800

info@ocpw.ocgov.com

OCPublicWorks.com

Administrative Services

OC Development Services

OC Facilities Design & Construction Management

OC Facilities Maintenance & CUF

OC Fleet Services

OC Construction

OC Environmental Resources

OC Operations & Maintenance

OC Infrastructure Programs

OC Survey

ORANGE COUNTY
OC Public Works

MEMORANDUM

To: Members, Board of Supervisors, as Governing Board of the Orange County Flood Control District

From: James Treadaway, Director

Date: December 8, 2020

Subject: Public Hearing on the Proposed Adoption of a Resolution of Necessity for Condemnation of Real Property Interests for the Prado Dam Project; All Districts (Board of Supervisors' Meeting Date: December 15, 2020) E01PD 27-102

Synopsis:
On December 15, 2020, County Executive Office, on behalf of the Orange County Flood Control District ("District"), will present an agenda item requesting that the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing Board of the District, consider for adoption a proposed Resolution of Necessity ("Resolution"), after the duly noticed public hearing and full consideration, authorizing the filing of a condemnation action to acquire real property interests described with particularity below (the "Subject Property Interests") for the Prado Dam Project ("Project"). The Project is necessary to protect the safety, health, and welfare of residents and properties in Orange County from the devastating effects of major storms, including a 190-year storm event. Acquisition of the Subject Property Interests is required for the Project to carry out the Project's flood control purposes.

A. Specific Real Property Interests to be Considered and Acquired:
County Counsel, the OC Public Works Department and the County Executive Office request your Board to consider for adoption the proposed Resolution (provided as an attachment to the ASR) to authorize and direct County Counsel and/or special litigation counsel, Murphy & Evertz, LLP (previously approved by your Board for purposes of representing the District on the Project), to file and pursue proceedings to condemn and acquire the Subject Property Interests, which pertain to and affect real property that is owned as a matter of record title by Bing Zhou and Fengzi Mei which real property is located at 8684 Kendra Ln. in the City of Eastvale in Riverside County and which Subject Property Interests are described as follows:

Permanent flowage easement in real property that ,is legally described and depicted by Exhibits A and B attached to the proposed Resolution, which easement area of approximately (0.18 acres) is referred to by the District as Project Parcel No. E01PD-27-102, and which covers Riverside County Assessor's Parcel No. 130-671-005 (the "Subject Property Interests").

B. Mailing of Notice of Hearing and Intention to Owners of Record of the Subject Property Interests:
As shown by the Declaration of Mailing that will be on file with the Clerk of the Board prior to the public hearing on this matter, in compliance with Code of Civil Procedure section 1245.235, the Clerk of the Board mailed to Owner a Notice of Intention notifying them of the hearing and of the Board's intention to consider the adoption of the Resolution, and of Owner's right to appear and be heard on the issues described therein.

C. Required Findings and Analysis of Facts Supporting Such Findings:
As a prerequisite to the Board's adoption of the Resolution, at the close of the public hearing, the California eminent domain law (Code of Civil Procedure sections 1245.220 and 1245.230, et seq.) requires the Board to make the findings described below. District staff of the OC Public Works Department has analyzed the Project and its objectives, as well as the acquisitions proposed, with

those required findings and legal requirements in mind. Staff hereby recommends to the Board that it make each and all the findings and staff provides the following analysis and support for these findings:

1. The Public interest and necessity require the Project.

The existing Prado Dam ("Dam") was built in 1941 for flood protection purposes, and is located near the confluence of State Routes 71 and 91. The Dam is operated by the U.S. Army Corps of Engineers ("Corps"). Because of increased urbanization both upstream and downstream of the Dam, accumulation of sedimentation, and environmental factors, the flood control protection of the Dam has significantly diminished over the past 75 years. The Corps considers this situation along the Santa Ana River to constitute "the worst flood threat west of the Mississippi River," with probable devastating impacts to residents and property, resulting in a risk of significant loss of life and personal and economic injury, should a significant flood event occur.

Given these conditions, the Corps developed the Santa Ana River Mainstem ("SAR") Project, as generally described in the Corps' 1988 Phase II General Design Memorandum ("GDM") and Final Supplemental Environmental Impact Statement, which includes construction of Reach 9 (the area of the Project located between Weir Canyon Road in the County of Orange and the Riverside County-Orange County boundary), the raising of the Dam's spillway and embankment and constructing new higher capacity outlet works. Additionally, the Corps developed the Limited Reevaluation Report ("LRR") in 2001 for the purpose of introducing SAR Project modifications following the 1988 GDM, which specifically included three components, the Norco Bluffs (Component A), Prado Basin (Component B), and Reach 9 (Component C). The LRR also served as a basis for the development of the Project Cooperation Agreement ("PCA") between the Corps and the District.

2. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Given the location of the Santa Ana River, and given the fact that the Dam embankment, spillway, and reservoir already exist, there is no cost-effective alternative to the Project in order to provide the desired level of flood protection and to achieve the public benefits and protection described above. Prior to 1989, the Corps conducted significant analysis over several years to determine Project requirements and potential impacts to address the serious flood threat discussed above, while mitigating environmental and other impacts and minimizing private injury, as feasible. Based on these studies, the District has determined that it is necessary to acquire the Subject Property Interests. There is no feasible or cost-effective alternative to the Project that would reduce impacts on those private properties affected by the Project.

3. The Subject Property Interests are necessary for the Project.

If the Subject Property Interests are not acquired, the Project could not proceed as planned, which in tum would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to State Route 91, and a significant risk of property damage, injury, and loss of life suffered by those downstream in Orange County. Per the Corps' Optimal Schedule, the Corps plans to award the contract for construction of the Project's spillway in 2021. It is necessary to acquire the Subject Property Interests so that the Corps can proceed with construction of the Project. If that schedule is not met, vital Project funding may be lost or delayed, thus exposing the citizens of Orange County to a prolonged risk of property damage and personal injury from a major storm event. It is necessary to obtain the Subject Property Interests to prevent and mitigate such risks. In addition, the Subject Property Interests themselves will be exposed to greater risk or frequency of inundation because of the Prado Dam's increased reservoir capacity once the spillway is increased in height. The Project will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level.

4. The offer required by California Government Code section 7267.2 was made to the owner of record of the Subject Property Interests.

In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board Resolution 67-612, an appraisal has been prepared covering the Subject Property Interests. An offer based on said appraisal has been made to Owners, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of the value has been delivered to Owners. Negotiations with the owner initially commenced on November 18, 2020 and continue. Real Estate staff followed up November 24, 2020. To date, property owners have been unresponsive. Multiple phone numbers associated with property owners have been disconnected, or rang unanswered, with no ability to leave voicemail. Attempts at contact are ongoing. Negotiations will continue, however, in order to proceed with timely acquisition of this Parcel in accordance with the Project, it is necessary to request the Board of Supervisors to consider the adoption of a Resolution of Necessity to allow us to commence the condemnation process at this time.

5. Compliance with CEQA.

Final Environmental Impact Report No. 583 ("Final EIR No. 583") was previously certified on November 28, 1989 and reflects the independent judgment of the District as Lead Agency. Final Supplemental Environmental Impact Statement/Report No. 583 ("Final Supplemental EIS/EIR No. 583") was previously certified on December 19, 2001 and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583, which were prepared and satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, respectively, adequately addressed and fully analyzed the condemnation action proposed herein, which is a necessarily included element contemplated as part of the whole Project.

A. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were adopted, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed condemnation action. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken, and no new information of substantial importance to the Project which was not known or could not have been known when the prior Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to this proposed condemnation action. Thus, no further CEQA review is required.

B. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation action.

C. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design, or included in the procedures of the Project Implementation.

Because the requested action would merely accomplish a property acquisition through condemnation proceedings, in accordance with the CEQA Guidelines and the previously certified CEQA documents for the project, which reflect the independent judgment of the Lead Agency, the proposed Project is recommended for approval.

6. General Plan (Government Code Section 65402).

A conformity statement for the Project was requested from the City of Eastvale ("City") as required by the Code. The City responded on November 23, 2016 that the Project is consistent with the City's General Plan.

D. Other Considerations:

1. Compliance with County's Hazardous Materials Assessment (HMA) Policy.

2. Funds.

Your Board is asked to authorize counsel to obtain an Order of Possession for the Parcel. Your Board is also requested to authorize counsel to make a deposit of estimated just compensation in the amount of $78,200, which is based on the appraisal previously obtained and will be paid from Fund 404-080-404-LS76-4100, Job No ESP2160.

3. Relocation Assistance.

The District anticipates that the acquisition of a flowage easement over a portion of the properties will not displace any occupants. Therefore, at this time the District has not assigned a Relocation Consultant to this acquisition. If the District later discovers there will be displacement as a result of the acquisition, a Relocation Company will be assigned to explain the Relocation Assistance Program to any displaced person or business ("Claimants") within 60 days after the offer to purchase is accepted as required by law. The District will coordinate with the relocation consultant firm to ensure that relocation benefits, if any, are provided to eligible Claimants upon obtaining an Order of Possession or at acquisition by settlement and/or by court order.

Recommended Actions:

Accordingly, we respectfully recommend that your Board, acting in the capacity as the governing Board of the District, at the conclusion of the public hearing noticed by the Clerk of the Board, adopt, by at least a two-thirds vote of the Board, the proposed Resolution of Necessity and take the following actions:

1. Make the required Findings described above and stated therein;
2. Direct County Counsel and/or previously approved special litigation counsel Murphy & Everetz, LLP, to institute eminent domain proceedings to condemn and acquire the Subject Property Interests; and
3. Authorize the Auditor-Controller to encumber and disburse funds as described in the proposed Resolution.

Should you have further questions, please contact me at (714) 667-3213.

Real Property Acquisition Questionnaire* for ASR

(*Applies to property purchase, or acquisition lease, license or easement)

Instructions:

- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure that County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for acquisition (fee, lease, license, easement)?
   a) Why is this property being considered for acquisition? It is required for the Prado Dam Project
   b) How and who identified this property for a potential acquisition? Army Corps of Engineers requires acquisition of all property below the 566-inundation line.
   c) What factors are key in recommending this property for acquisition? This property is below the 566-inundation line.
   d) How does the proposed acquisition fit into the County's/District's strategic or general plan? It is part of the Prado Dam Project
   e) What are the short and long term anticipated uses of the property? Open space for flowage of flood waters.
   f) Are there any limitations on the use of the property for its intended purposes? No.

2. What analysis has been performed as to whether to acquire the proposed real property interest?
   a) Have there been any internally or externally prepared reports regarding this property acquisition? Yes.
   b) Who performed the analysis? Army Corps of Engineers and Flood Engineers.
   c) Provide details about the analysis and cost/benefit comparison. The Project and required acquisition are necessary to avoid loss of property and/or life in the event of a major storm/flood event.

3. How was the acquisition price, or lease/license rent, determined? By an appraisal.
   a) Who performed the appraisal or market study and what certifications do they possess? A third-party independent F&E appraiser. A internal review of the appraisal was performed.
   b) How does the price/rent compare with comparable properties? It is comparable.
   c) Does the setting of the price/rent follow industry standards and best practices? Yes.
   d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? The County already owns these properties and is responsible for maintenance of these properties, primary consisting of weed control and fencing. Provide an estimate of the costs to the County/District if applicable. Unknown.

4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use? Some demolition may be required.
   a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements? N/A.
   b) Include estimates of the costs. Unknown.
   c) What department will be responsible for the costs? Flood.

5. Can the County terminate the purchase/easement, lease/license? Yes prior to conclusion of the lawsuit.
   a) What would be necessary to terminate the agreement, and when can it be terminated? A dismissal through the court.
   b) Are there penalties to terminate the purchase/easement, or lease/license? We may have to pay the owners legal fees if we decide not to proceed.

6. What department will be responsible for the acquisition payments? Flood.
   a) Are the acquisition costs budgeted in the department's budget? Yes.
   b) What fund number will the funds for the acquisition ultimately be drawn from? Fund 404.
   c) Will any restricted funds be used for the acquisition? (Check with the Auditor Controller's General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.) N/A.
   d) If restricted funds will be used, has County Counsel advised that this is an allowable use of the proposed restricted funds? N/A.

7. Does the proposed purchase/lease/license/easement agreement comply with the CEO Real Estate standard language? Yes.
   a) List any modified clauses and reasons for modification.

8. If this is a lease, is it a straight lease, an operating agreement, a lease with an option to purchase, or a capital lease (see details below)? N/A

   Capital Lease Determination: At the inception of any *potential* capital lease, it is important to contact the Auditor-Controller's Capital Asset Unit for further guidance to ensure that proper classification and accounting for the lease occurs. There are specialized accounting rules and required forms for capital leases. See further details in the County's Accounting Manual, Policy No. FA-1: *Accounting for Lease Purchases (Capital Leases)*, located on the intranet. For accounting purposes only, a capital lease exists if ANY one (1) of the following four (4) criteria is met:

   i) Lease transfers ownership to the County by the end of the term.
   ii) Lease contains an option to purchase the property by the end of the term for a price lower than the expected fair market value of the property? (For example $1 or $1,000, and based on this option price, for accounting purposes only, the ultimate purchase of the property is deemed reasonably assured at the inception of the lease.)
   iii) Lease term is equal to 75% or more of the remaining estimated useful life of the leased property.*
   iv) Present value of the minimum lease payments is equal to 90% or more of the fair value of the property at the inception of the lease.*

   *Criteria iii) and iv) don't apply if the lease term begins in the last 25% of a property's estimated useful life.

   To validate whether a lease is a capital lease for accounting purposes, please contact the Auditor-Controller's Capital Asset Unit at capitalassets@ac.ocgov.com .

Final Supplemental Environmental Impact Statement and Report No. 583

https://ocgov.box.com/s/f9a51iy16c9y25msu4b03ngxq13p4kng

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Kurt R. de Steuben and Adele K. de Steuben, husband and wife as joint tenants ("Owner") and located at 8230 Grapewin Street in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described and depicted as shown in Attachment 1 and Attachment 2 to the proposed Resolution, consisting of project parcel no. E01PD 33-017 and 33-018, which is a portion of Riverside County Assessor's Parcel Number ("APN") 130-070-011 & 130-070-012, located at 8230 Grapewin Street Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and

easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020, hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020, Supplemental Agenda Staff Report.

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD 33-017 and 33-018, which covers portions of Riverside County Assessor's Parcel Nos.130-070-011 & 130-070-012.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $81,300, Job No ESP2172; to be paid from Fund 404-080-404-LS88-4100- ESP2172.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are

located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235;

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorenson, LLP and Murphy & Evertz LLP, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS88-4100, Job No. ESP2172) and to issue funds, as necessary and requested by County Counsel, in the total amount

of up to $81,300 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the Owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $81,300.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

Attachment 1
Exhibit A Legal Description E01PD 33-017 and Exhibit B Depiction E01PD 33-017

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 33-017

That portion of Lot "O" of Fuller Rancho, in the City of Eastvale, County of Riverside, State of California, as per map filed in Book 16, Pages 94 through 97 of Maps, in the office of the County Recorder of said County, described in the Individual Grant Deed recorded September 4, 1987 as Instrument No. 258027 of Official Records in the office of said County Recorder, described as follows:

BEGINNING at the Southeasterly corner of the land described in said Individual Grant Deed;

thence along the southerly line of said land, North 77° 06' 27" West 92.09 feet;

thence leaving said southerly line, North 16° 42' 55" East 40.30 feet;

thence North 54° 52' 53" East 20.62 feet;

thence North 82° 56' 26" East 37.07 feet to a point on the northeasterly line of said land, said point being measured along said northeasterly line of said land 50.17 feet from the Northeasterly corner of said land;

thence along said northeasterly line, South 66° 59' 34" East 50.17 feet to the northeast corner of said land;

thence along the easterly line of said land, South 21° 09' 22" West 60.00 feet to the **POINT OF BEGINNING.**

Containing an area of 5764 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

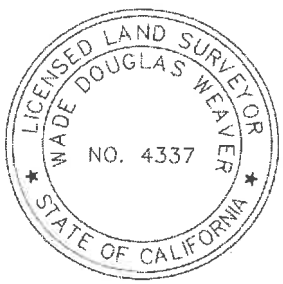
APPROVED

Kevin Hills, County Surveyor, L.S. 6617

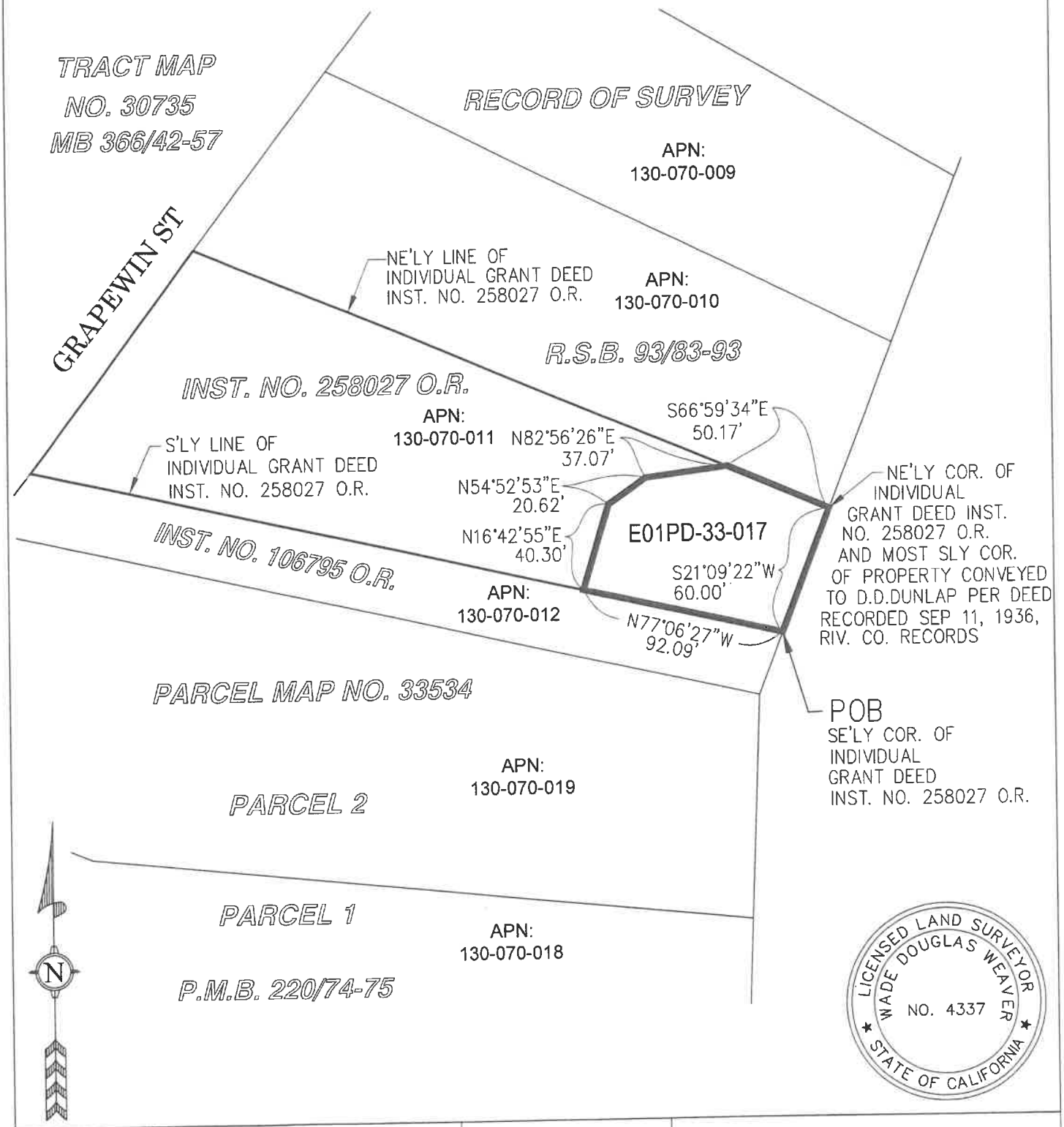
Wade Weaver

Date: 9-14-2020

By: Wade Douglas Weaver, L.S. 4337



SKETCH TO ACCOMPANY LEGAL DESCRIPTION



COUNTY OF ORANGE CALIFORNIA	OC PUBLIC WORKS OC SURVEY RIGHT-OF-WAY SERVICES	ROW ID NO. 2018-153 SCALE: 1"=60'	EXHIBIT B SHEET 1 OF 1
	PROJECT: PRADO BASIN PARCEL 33-017		PREPARED BY: J.MORENO

Attachment 2
Exhibit A Legal Description E01PD 33-018 and Exhibit B Depiction E01PD 33-018

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 33-018

That portion of Lot "O" of Fuller Rancho, in the City of Eastvale, County of Riverside, State of California, as per map filed in Book 16, Pages 94 through 97 of Maps, in the office of the County Recorder of said County, described in the Individual Quitclaim Deed recorded May 21, 1984 as Instrument No. 106795 of Official Records in the office of said County Recorder, described as follows:

BEGINNING at the southeasterly corner of the land described in said Individual Quitclaim Deed, said corner also being the northeasterly corner of Parcel 2 of Parcel Map No. 33534 in the Unincorporated Territory of the County of Riverside, State of California, as per the map filed in Book 220, Pages 74 and 75 of Parcel Maps, in the office of said County Recorder of said County;

thence along the southerly line of said land, said southerly line being the northerly line of said Parcel 2, North 77° 04' 58" West 101.50 feet;

thence leaving said southerly line, North 37° 28' 57" East 33.15 feet to a point on the northerly line of said land, said point being measured along said northerly line 92.09 feet from the northeasterly corner of said land;

thence along said northerly line, South 77° 06' 27" East 92.09 feet to the northeasterly corner of said land;

thence along the easterly line of said land, South 21° 09' 22" West 30.50 feet to the **POINT OF BEGINNING.**

Containing an area of 2920 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

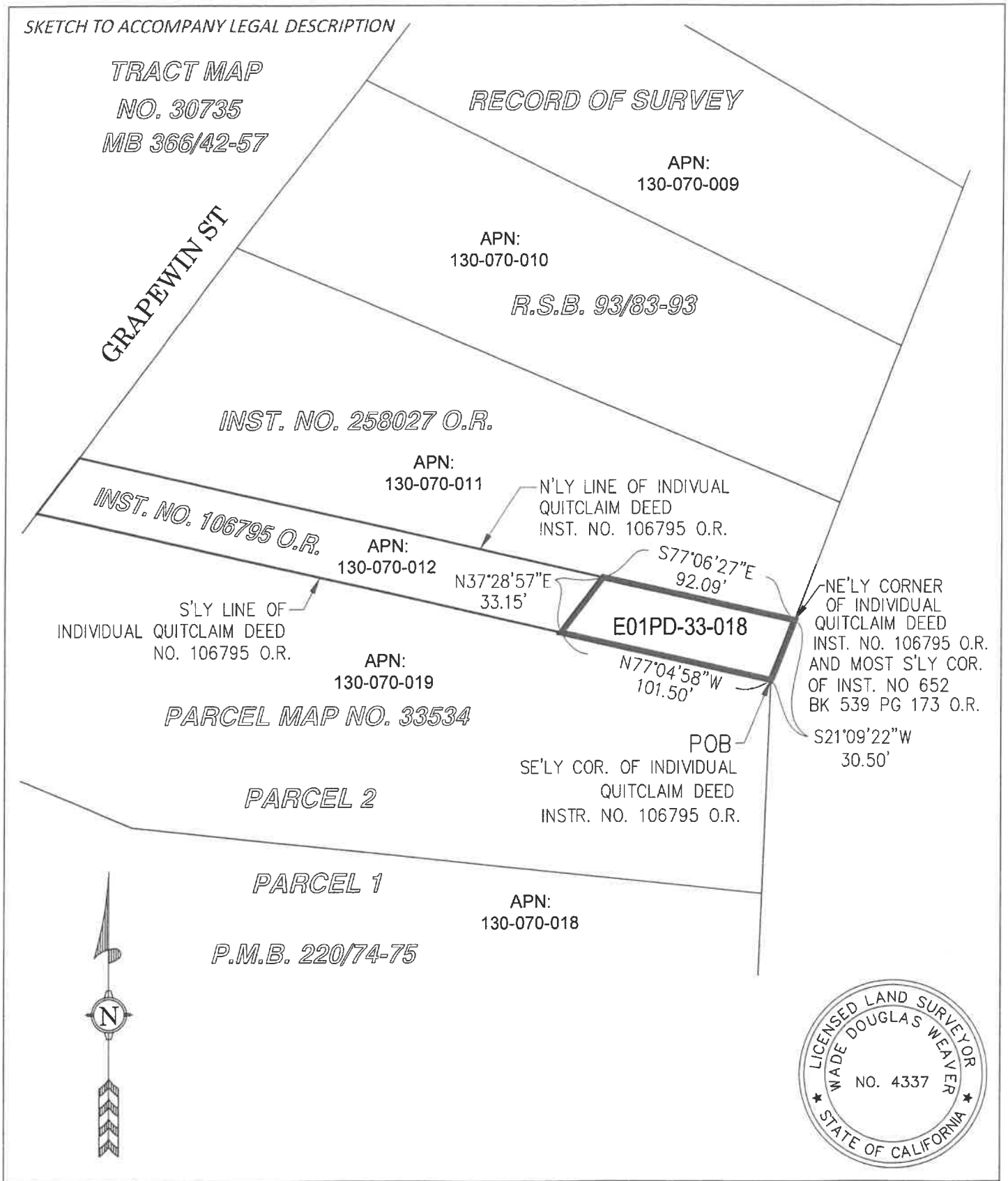
Kevin Hills, County Surveyor, L.S. 6617

Wade Weaver

Date: 9-14-2020

By: Wade Douglas Weaver, L.S. 4337





COUNTY OF ORANGE CALIFORNIA	OC PUBLIC WORKS OC SURVEY RIGHT-OF-WAY SERVICES	ROW ID NO. 2018-153 SCALE: 1"=60'	EXHIBIT B SHEET 1 OF 1
PROJECT: PRADO BASIN PARCEL 33-018			PREPARED BY: J.MORENO

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Joao S. Pires and Maria De Lourdes Pires Trustees of the Joao S. Pires and Maria De Lourdes Pires Family Trust dated 9/24/08 ("Owner") and located 14739 Chandler Street in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-40-063, which covers Riverside County Assessor's Parcel Number ("APN") 144-100-018, (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020 pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020, Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-40-163, which covers portions of Riverside County Assessor's Parcel No 144-100-018

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $75,000, Job No ESP2104; to be paid from Fund 404-080-404-LS12-4100.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS12-4100, Job No. ESP2104) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $75,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and

to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $75,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 40-063

That portion of Lot 53 of Persimmon Republic Acres, in the City of Eastvale, County of Riverside, State of California as per map filed in Book 12, Page 98 of Maps, shown as Parcel 2 of Record of Survey filed in Book 50, Page 90 in the office of the County Recorder of said County, described whole as follows:

BEGINNING at the intersection of the westerly line of said Parcel 2, with the southerly line of Parcel 2230-9 as shown on Record of Survey filed in Book 57, Pages 94-97 inclusive in the Office of said County Recorder;

Thence along said westerly line South 00°46'41" West 264.27 feet;

Thence leaving said westerly line South 63°15'15" East 36.79 feet;

Thence North 89°46'49" East 49.49 feet to a point on the easterly line of said Parcel 1, said point being measured along said easterly line a distance of 279.73 feet from the southerly line of said Parcel 2230-9;

Thence along said easterly line North 00°47’53" East 93.58 feet;

Thence leaving said easterly line North 40°20’50" West 114.64 feet;

Thence North 00°29’54" West 36.51 feet;

Thence North 23°55’24" East 25.07 feet;

Thence North 67°39’49" East 72.22 feet to a point on the easterly line of said Parcel 1, said point being measured along said easterly line a distance of 11.89 feet from the southerly line of said Parcel 2230-9;

Thence along said easterly line North 00°47’53" East 11.89 feet to a point on the southerly line of said Parcel 2230-9;

Thence along southerly line of said parcel North 89°21’43" West 82.66 feet to the **POINT OF BEGINNING**

Containing an area of 14272 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998915 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin Hills, County Surveyor, L.S. 6617

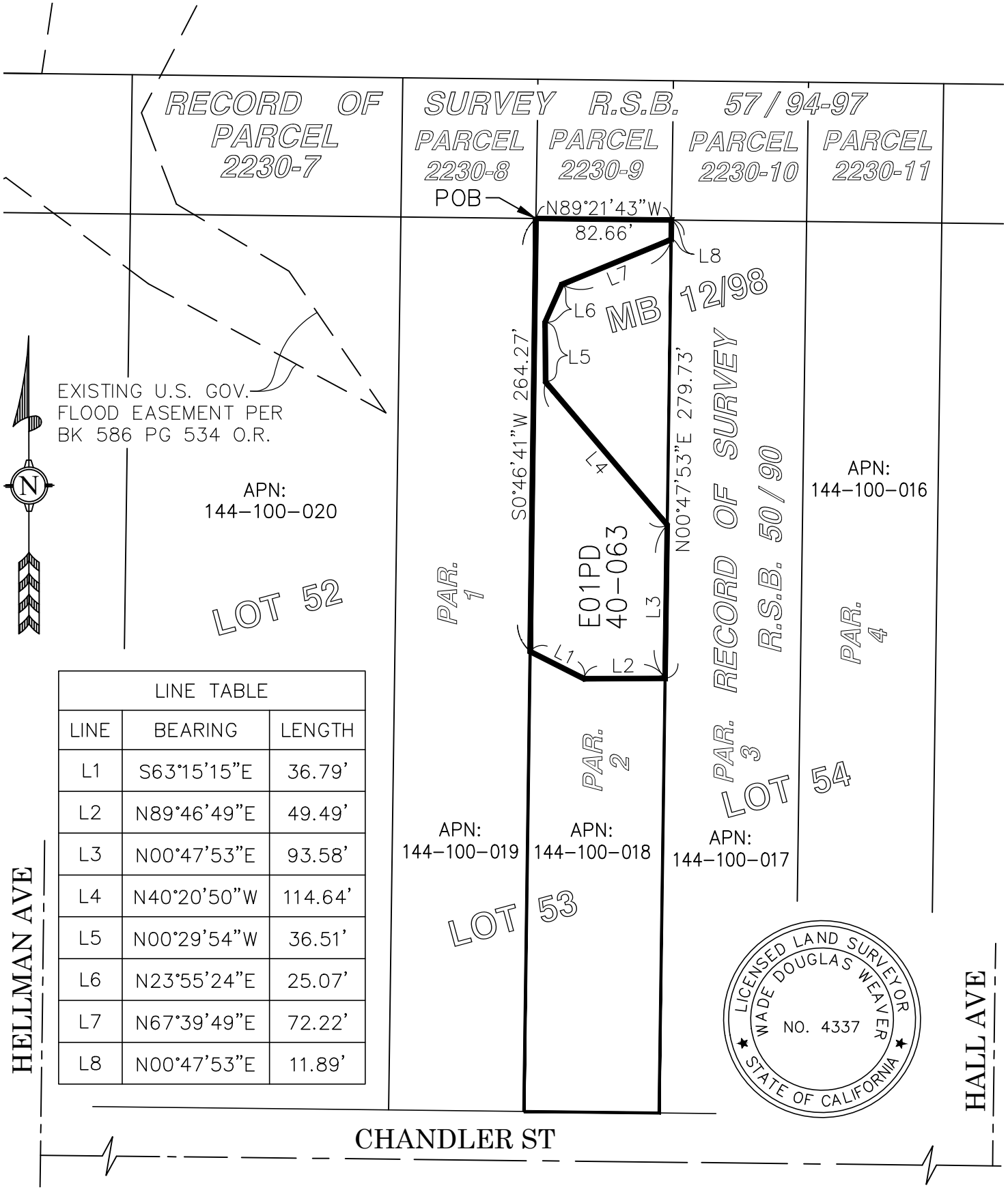


_____ Date: 8-13-2020

By: Wade Douglas Weaver, L.S. 4337

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

Attachment F



LINE TABLE		
LINE	BEARING	LENGTH
L1	S63°15'15"E	36.79'
L2	N89°46'49"E	49.49'
L3	N00°47'53"E	93.58'
L4	N40°20'50"W	114.64'
L5	N00°29'54"W	36.51'
L6	N23°55'24"E	25.07'
L7	N67°39'49"E	72.22'
L8	N00°47'53"E	11.89'

LICENSED LAND SURVEYOR
WADE DOUGLAS WEAVER
NO. 4337
STATE OF CALIFORNIA

COUNTY OF ORANGE CALIFORNIA

OC PUBLIC WORKS
OC SURVEY
RIGHT-OF-WAY SERVICES

ROW ID NO. 2016-006

SCALE: 1"=80'

EXHIBIT B

SHEET 1 OF 1

PROJECT: PRADO BASIN PARCEL 40-063

PREPARED BY: J.MORENO

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Clinton Ogier, a single man ("Owner") and located at 4015 Bluff Street in the City of Norco, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 21-005, which is a portion of Riverside County Assessor's Parcel Number ("APN") 121-060-003, located at 4015 Bluff Street, Norco, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020, hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020, Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD 21-005, which covers portions of Riverside County Assessor's Parcel No. 121-060-003.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $125,000, Job No ESP2141; to be paid from Fund 404-080-404-LS50-4100- ESP2141.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are

located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235;

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorenson and Murphy & Evertz LLP, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS50-4100, Job No. ESP2141) and to issue funds, as necessary and requested by County Counsel, in the total amount

of up to $125,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the Owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel as and if necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $125,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 21-005

That portion of Lot 1, Block 71 as shown on the Map of the Town of Auburndale, in the City of Norco, County of Riverside, State of California, per map filed in Book 6, Page 21 of Maps, in the office of the County Recorder of San Bernardino and described in the Individual Grant Deed recorded August 4, 2011 as Document No. 2011-0342650 of official records in the office of the County Recorder of Riverside, together with that portion of the Southeasterly one-half of vacated Garden Street, 60 feet in width as shown on said Map, and more particularly described as follows:

COMMENCING at the most easterly corner of Lot 1, Block 71 of said Map;

Thence along the southerly line of said lot South 43°07'59" West 233.68 feet to the most southerly corner of said Grand Deed;

Thence along the southwesterly line of said Grant Deed North 46°52'09" West 69.64 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing along said southwesterly line North 46°52'09" West 30.36 feet;

Thence continuing along said southwesterly line North 53°43'06" West 99.11 feet to the most westerly corner of said Grant Deed and centerline of Garden Street;

Thence along the centerline of Garden Street, also being the northwesterly line of said Grant Deed, North 53°04'08" East 118.31 feet to most northerly corner of said Grant Deed;

Thence along the northeasterly line of said Grant Deed South 46°51'29" East 121.29 feet;

Thence leaving said northeasterly line, South 51°49'45" West 80.75 feet;

Thence South 07°13'57" West 13.18 feet;

Thence South 73°54'32" West 16.53 feet to the southwesterly line of said Grant Deed, also being the **TRUE POINT OF BEGINNING**

Containing an area of 13,529 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin Hills, County Surveyor, L.S. 6617

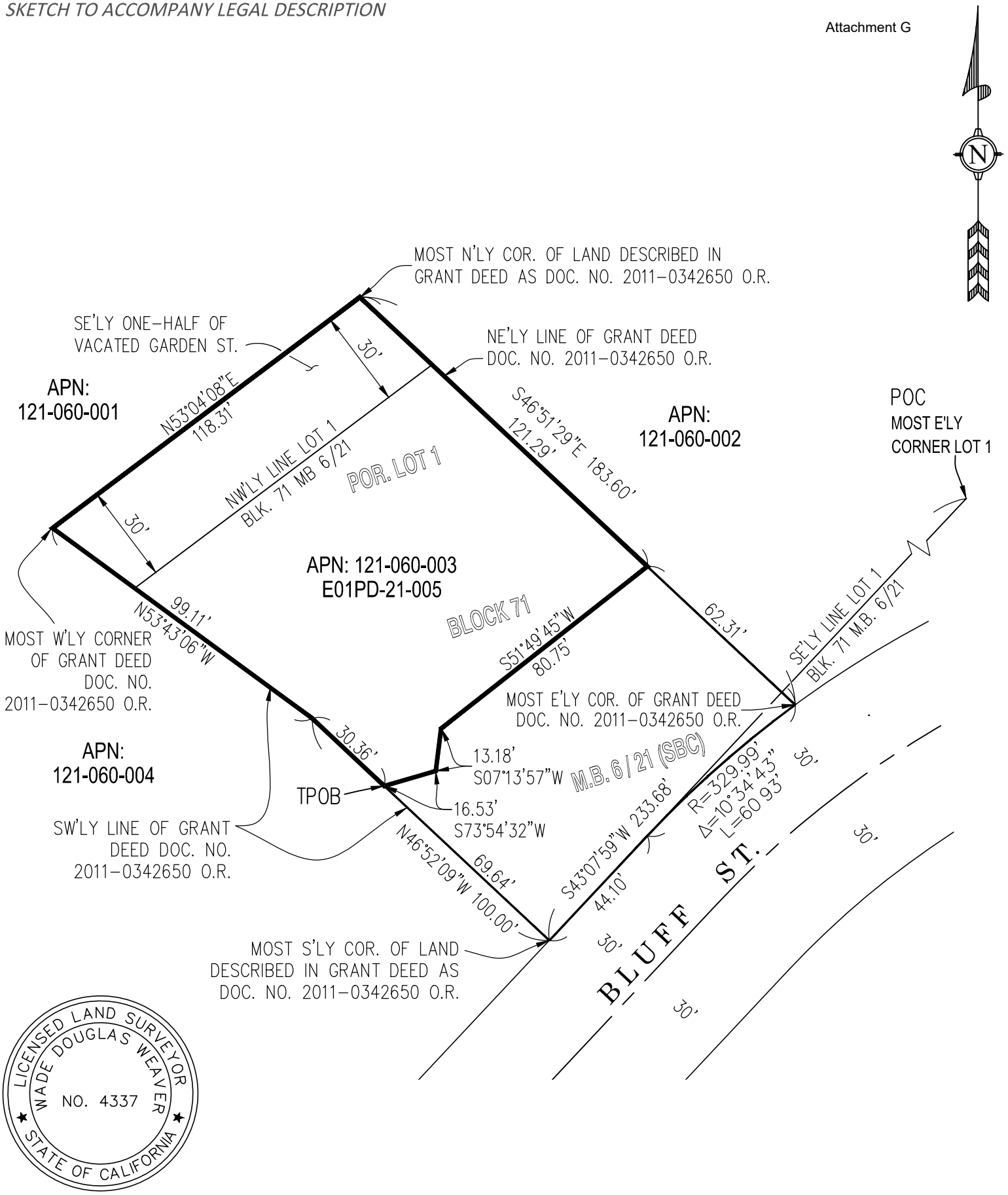
_____ Date: 10-06-2020

By: Wade Douglas Weaver, L.S. 4337



SKETCH TO ACCOMPANY LEGAL DESCRIPTION

Attachment G



LICENSED LAND SURVEYOR
WADE DOUGLAS WEAVER
NO. 4337
STATE OF CALIFORNIA

COUNTY OF ORANGE CALIFORNIA	OC PUBLIC WORKS OC SURVEY RIGHT-OF-WAY SERVICES	ROW ID NO. 2016-070 SCALE: 1"=40'
		EXHIBIT B SHEET 1 OF 1
PROJECT: PRADO BASIN PARCEL 21-005		PREPARED BY: J.MORENO

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Steven M. Westerlin ("Owner") and located at 2563 Wagon Wheel Road in the City of Norco, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-048, which covers Riverside County Assessor's Parcel Number ("APN") 121-310-005, (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020 pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020 the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts

with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD- 21-048, which covers portions of Riverside County Assessor's Parcel No. 121-310-005.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $104,000, Job No ESP2281; to be paid from Fund 404-080-404-L0S4-4100-ESP2281.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure

Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-L0S4-4100, Job No. ESP2281) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $104,000 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of

greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $104,000.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 21-048

That portion of Lot 16 of Tract No. 5777-1, in the City of Norco, County of Riverside, State of California, as per map filed in Book 82, Pages 19-21 of Maps, in the office of the County Recorder of said County described as follows:

BEGINNING at the northerly corner of said Lot 16**;**

thence along the northeasterly line of said Lot 16, South 46° 59' 44" East 132.62 feet to the easterly corner of said Lot 16;

thence along the southeasterly line of said Lot 16 South 43° 02' 27" West 45.91 feet;

thence leaving said southeasterly line, South 89° 39' 32" East 31.97 feet;

thence North 47° 09' 56" West 25.63 feet;

thence North 44° 01' 39" East 12.22 feet;

thence North 48° 03' 35" West 32.94 feet;

thence South 42° 41' 43" West 64.56 feet;

thence North 81° 50' 51" West 16.52 feet to the beginning of a non-tangent curve, concave northwesterly, having a radius of 250.00 feet in the northwesterly line of said Lot 16, a radial line to said curve bears South 60° 04' 37" East;

thence northeasterly 48.31 feet along said curve and said northwesterly line through a central angle of 11° 04' 16" to the beginning of a reverse tangent curve, concave southeasterly, having a radius of 269.99 feet, in the northwesterly line of said Lot 16, a radial line of said curve from said point of reverse curve bears North 71° 08' 52" West;

thence northeasterly 87.91 feet along last said curve and continuing along last said northwesterly line through a central angle of 18° 39' 19" to the **POINT OF BEGINNING.** A radial line from the end of said curve bears North 52° 29' 02" West;

Containing an area of 9339 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin Hills, County Surveyor, L.S. 6617



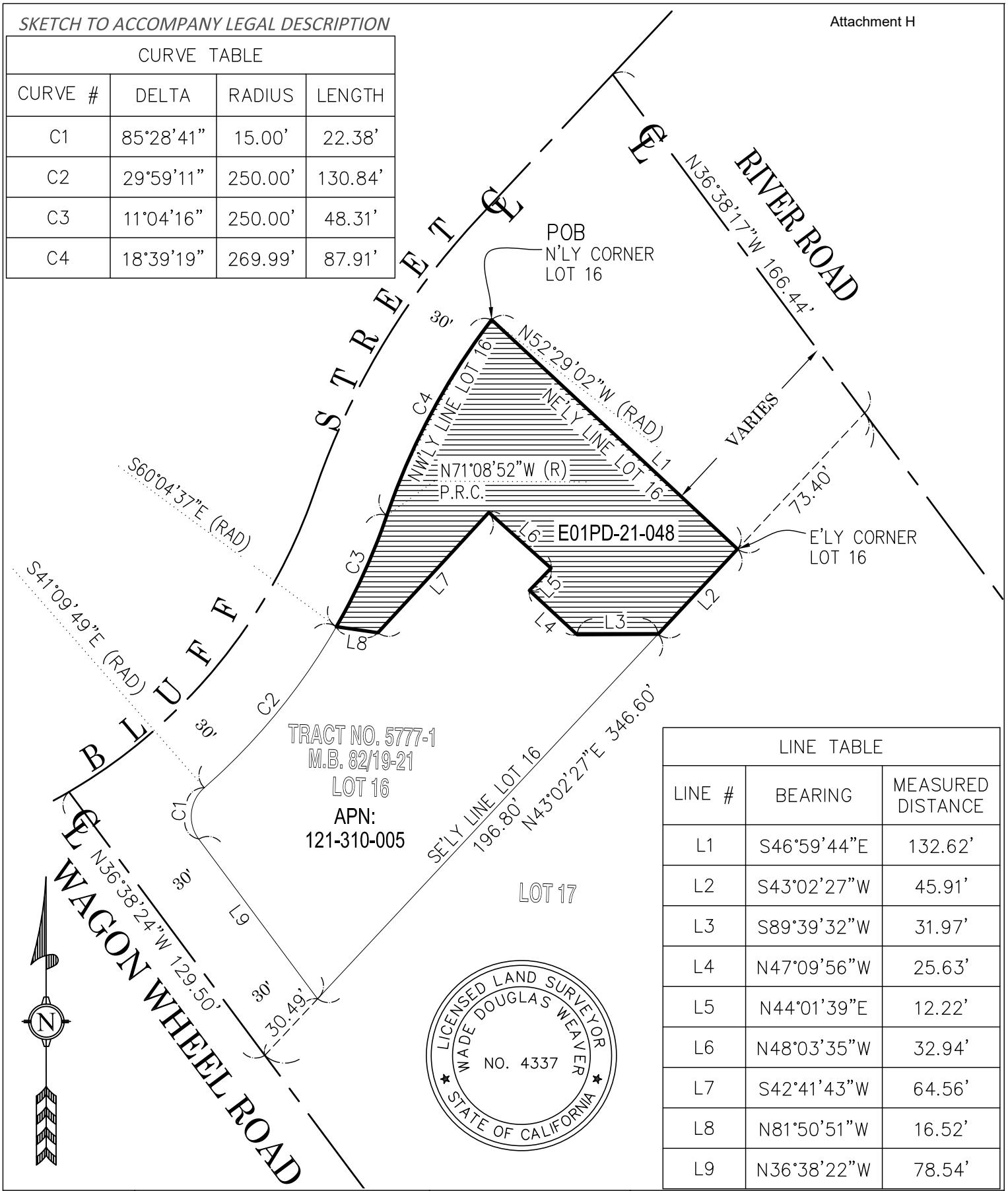
_____ Date: 10/09/20

By: Wade Douglas Weaver, L.S. 4337

.

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

CURVE TABLE			
CURVE #	DELTA	RADIUS	LENGTH
C1	85°28'41"	15.00'	22.38'
C2	29°59'11"	250.00'	130.84'
C3	11°04'16"	250.00'	48.31'
C4	18°39'19"	269.99'	87.91'



LINE TABLE		
LINE #	BEARING	MEASURED DISTANCE
L1	S46°59'44"E	132.62'
L2	S43°02'27"W	45.91'
L3	S89°39'32"W	31.97'
L4	N47°09'56"W	25.63'
L5	N44°01'39"E	12.22'
L6	N48°03'35"W	32.94'
L7	S42°41'43"W	64.56'
L8	N81°50'51"W	16.52'
L9	N36°38'22"W	78.54'

COUNTY OF ORANGE CALIFORNIA

OC PUBLIC WORKS
OC SURVEY
RIGHT-OF-WAY SERVICES

ROW ID NO. 2018-187

SCALE: 1"=50'

EXHIBIT B
SHEET 1 OF 1

PROJECT: PRADO BASIN PARCEL 21-048

PREPARED BY:
M.Kubisty

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Truc Lam Buddhist Center, a non-profit organization ("Owner") and located at 4628 Bluff Street in the city of Corona , County of Riverside , California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 21-111, which is a portion of Riverside County Assessor's Parcel Number ("APN") 121-050-32 located at 4628 Bluff Street, Corona, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020, hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020, Supplemental Agenda Staff Report.

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen, LLP and Murphy and Evertz LLP, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD 21-111, which covers portions of Riverside County Assessor's Parcel No[s]. 125-050-32.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $44,700, Job No ESP2301; to be paid from Fund 404-080-404-LS244100- ESP2301.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are

located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235;

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorenson, LLP and Murphy & Evertz LLP, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS24-4100, Job No. ESP2301) and to issue funds, as necessary and requested by County Counsel, in the total amount

of up to $44,700 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the Owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $44,700.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 21-111

That portion of Lot D, of Parcel Map No. 24779, in the County of Riverside, State of California, as per map filed in Book 174, Pages 59 and 60 of Maps, in the Office of the County Recorder of Riverside, described as follows:

COMMENCING at the northerly terminus of the easterly line of said Lot D, shown as South 48° 26' 00" East, 84.28', on said Parcel Map No. 24779;

thence along said easterly line South 48° 25' 02" East 10.58' feet, to the **TRUE POINT OF BEGINNING**;

thence continuing along said easterly line South 48° 25' 02" East, 73.70 feet;

thence continuing along said easterly line South 25° 16' 30" East, 41.93 feet;

thence continuing along said easterly line North 77° 55' 13" East 10.00 feet to a non-tangent curve concave westerly, having a radius of 190.00 feet. Radial thereto bears South 77° 55' 13" West;

thence continuing southwesterly along said curve and said easterly line, through a central angle of 38°50'29" an arc length of 128.80', to a point of cusp. Said point also being a point in the westerly line of Bluff street, as shown on the above referenced Parcel Nap No. 24779. Radial thereto bears North 63°14'02" West;

thence leaving said easterly line, North 11° 41' 19" East, 24.68 feet;

thence North 03° 38'37" East, 33.45 feet;

thence North 20° 31'43" West,16.21 feet;

thence North 15° 39' 22" West, 10.51feet;

thence North 26° 56'43" West,10.87 feet;

thence North 41° 01'59" West, 5.96 feet;

thence North 71° 45'07" West, 5.49 feet;

thence North 50° 54'11" West, 8.18 feet;

thence North 35° 04'42" West, 8.49 feet;

thence North 25° 59'19" West, 44.76 feet;

thence North 02° 13'28" East, 11.00 feet;

thence North30° 33'49" West, 17.36 feet;

thence North 23° 27'25" West, 19.85 feet;

thence North 20° 32'03" West, 10.06 feet;

thence North 05° 38’03” West, 5.44 feet;

thence North 68° 29’18” East, 11.70 feet to the **TRUE POINT OF BEGINNING.**

Containing an area of 4688 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin Hills, County Surveyor, L.S. 6617

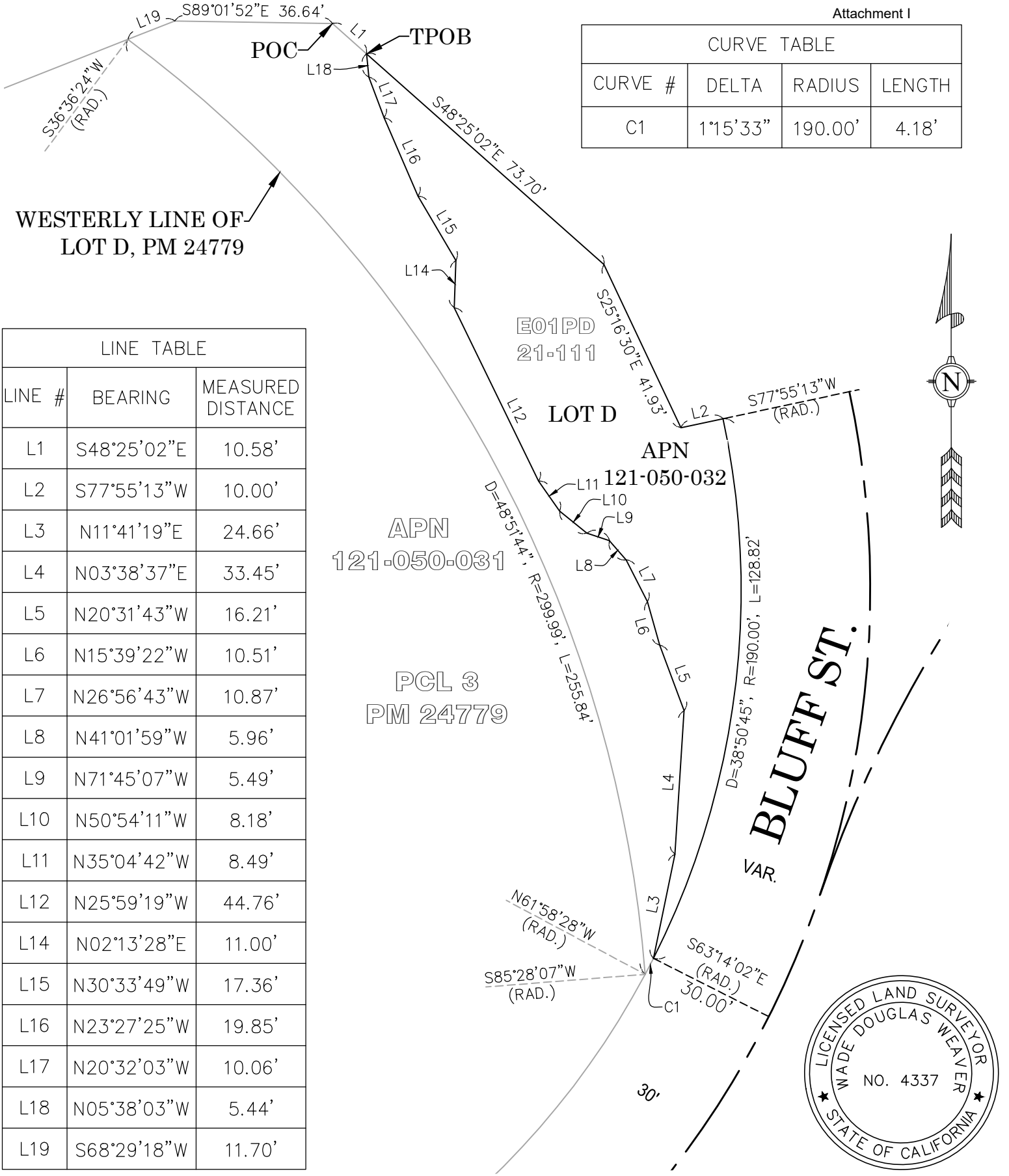


_____ Date: 10-16-2020

By: Wade Douglas Weaver, L.S. 4337

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

Attachment I



CURVE TABLE			
CURVE #	DELTA	RADIUS	LENGTH
C1	1°15'33"	190.00'	4.18'

LINE TABLE		
LINE #	BEARING	MEASURED DISTANCE
L1	S48°25'02"E	10.58'
L2	S77°55'13"W	10.00'
L3	N11°41'19"E	24.66'
L4	N03°38'37"E	33.45'
L5	N20°31'43"W	16.21'
L6	N15°39'22"W	10.51'
L7	N26°56'43"W	10.87'
L8	N41°01'59"W	5.96'
L9	N71°45'07"W	5.49'
L10	N50°54'11"W	8.18'
L11	N35°04'42"W	8.49'
L12	N25°59'19"W	44.76'
L14	N02°13'28"E	11.00'
L15	N30°33'49"W	17.36'
L16	N23°27'25"W	19.85'
L17	N20°32'03"W	10.06'
L18	N05°38'03"W	5.44'
L19	S68°29'18"W	11.70'

LICENSED LAND SURVEYOR
WADE DOUGLAS WEAVER
NO. 4337
STATE OF CALIFORNIA

COUNTY OF ORANGE CALIFORNIA

OC PUBLIC WORKS
OC SURVEY
RIGHT-OF-WAY SERVICES

ROW ID NO. 2018-209

SCALE: 1"=30'

EXHIBIT B

SHEET 1 OF 1

PROJECT: PRADO BASIN PARCEL 21-111

PREPARED BY:
J.MORENO

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Bing Zhou, a single woman and Fengzi Mei, an unmarried woman as joint tenants ("Owners") and located at 8684 Kendra Lane, in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-102, which covers Riverside County Assessor's Parcel Number ("APN") 130-671-005, (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020, Supplemental Agenda Staff Report.

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-27-102, which covers portions of Riverside County Assessor's Parcel No. 130-671-005.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $78,200.00 Job No ESP2160; to be paid from Fund 404-080-404-LS76-4100-ESP2160.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, inter alia, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (Job No. ESP2160; to be paid from Fund 404-080-404-LS76-4100-ESP2160) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $78,200.00 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made

to the owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $78,200.00.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-102

That portion of Lot 30 of Tract No. 30825, in the County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 inclusive of Maps, in the office of the County Recorder of said County described as follows:

BEGININING at the southerly corner of said Lot 30;

thence along the southwesterly line of said Lot, North 50° 11' 17" West 77.60 feet;

thence leaving said line North 37° 39' 12" East 43.89 feet;

thence North 01° 39' 13" West 56.32 feet;

thence North 37° 43' 31" East 14.16 feet to the northeasterly line of said lot;

thence along said line South 50° 13' 49" East 92.98 feet to the easterly corner of said lot;

thence along the easterly line of said Lot, South 26° 18' 33" West 103.13 feet to the **POINT OF BEGINNING**.

Containing an area of 8,021 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

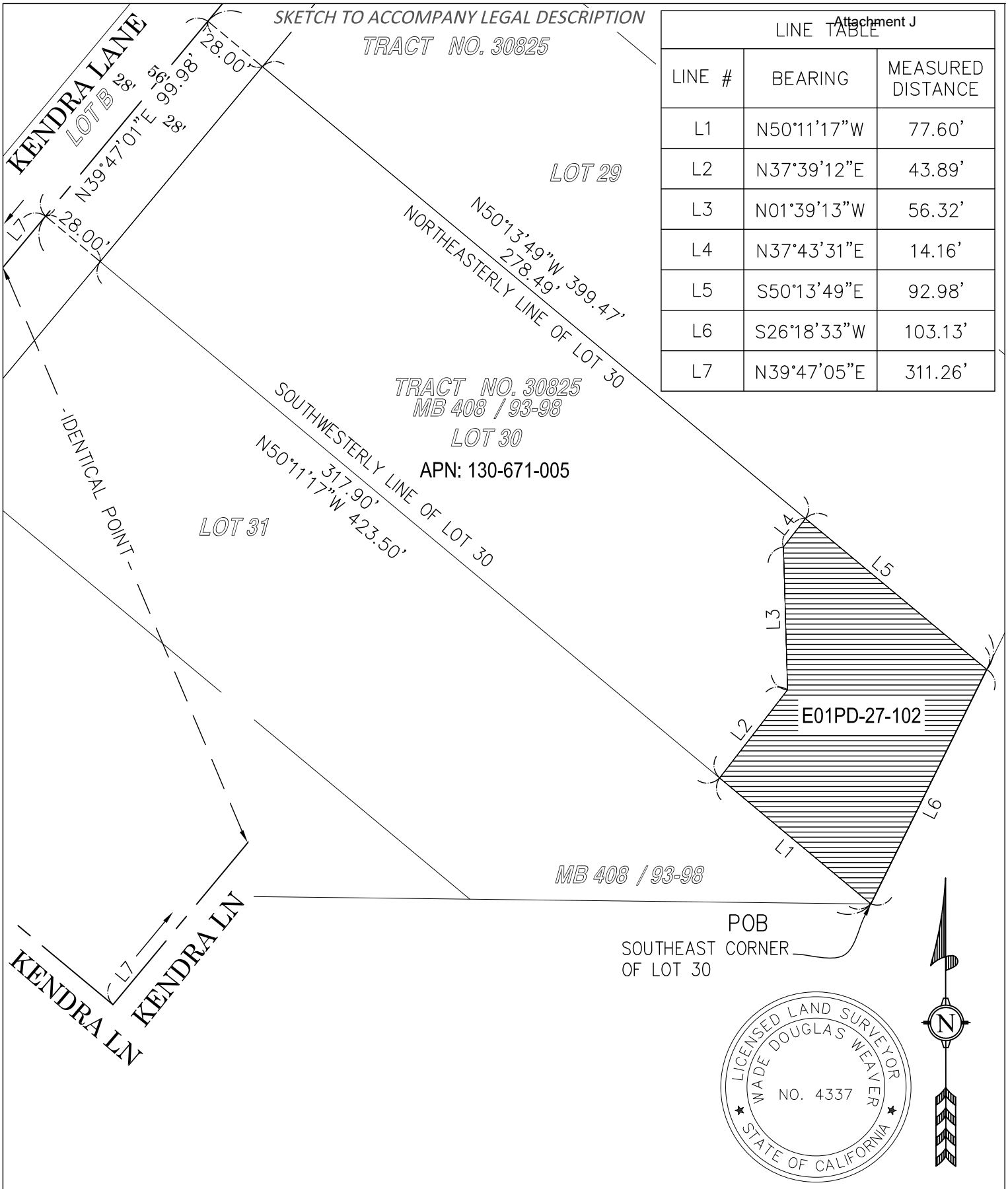
Kevin Hills, County Surveyor, L.S. 6617



10/14/20
_____ Date: _____

By: Wade Douglas Weaver, L.S. 4337

SKETCH TO ACCOMPANY LEGAL DESCRIPTION



LINE TABLE		
LINE #	BEARING	MEASURED DISTANCE
L1	N50°11'17"W	77.60'
L2	N37°39'12"E	43.89'
L3	N01°39'13"W	56.32'
L4	N37°43'31"E	14.16'
L5	S50°13'49"E	92.98'
L6	S26°18'33"W	103.13'
L7	N39°47'05"E	311.26'

LICENSED LAND SURVEYOR
WADE DOUGLAS WEAVER
NO. 4337
STATE OF CALIFORNIA

COUNTY OF ORANGE CALIFORNIA

OC PUBLIC WORKS
OC SURVEY
RIGHT-OF-WAY SERVICES

ROW ID NO. 2016-076

SCALE: 1"=50'

EXHIBIT B
SHEET 1 OF 1

PROJECT: PRADO BASIN PARCEL 27-102

PREPARED BY:
M.Kubisty

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Richard S. Wibbens and Michele A. Wibbens, Trustees of the Wibbens Family Trust dated March 25, 2014, ("Owner") and located at 8670 Kendra Lane in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-101, which covers a portion of County Assessor's Parcel Number ("APN[s]") 130-671-004, (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-27-101, which covers portions of 8670 Kendra Lane, Eastvale, CA 92880, County Assessor's Parcel No[s].130-671-004.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $98,400, Job No. ESP2148; to be paid from Fund 404-080-404-LS57-4100.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that

will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS57-4100, Job No. ESP2148) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $98,400 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and

to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $98,400.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-101

That portion of Lot 29 of Tract No. 30825, in the County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 inclusive of Maps, in the office of the County Recorder of said County described as follows:

BEGININING at the southerly corner of said Lot 29;

thence along the southwesterly line of said Lot, North 50° 13' 49" West 92.98 feet;

thence leaving said line, South 81° 19' 33" East 5.01 feet;

thence North 39° 19' 11" East 8.43 feet;

thence North 24° 05' 12" West 17.24 feet;

thence North 00° 40' 09" West 20.02 feet;

thence North 10° 26' 05" East 75.89 feet to the northeasterly line of said lot;

thence along said line South 50° 13' 49" East 130.46 feet to the northeast corner of said lot;

thence along the southeasterly line of said Lot, South 26° 18' 33" West 102.83 feet

to the **POINT OF BEGINNING**.

Containing an area of 11,190 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

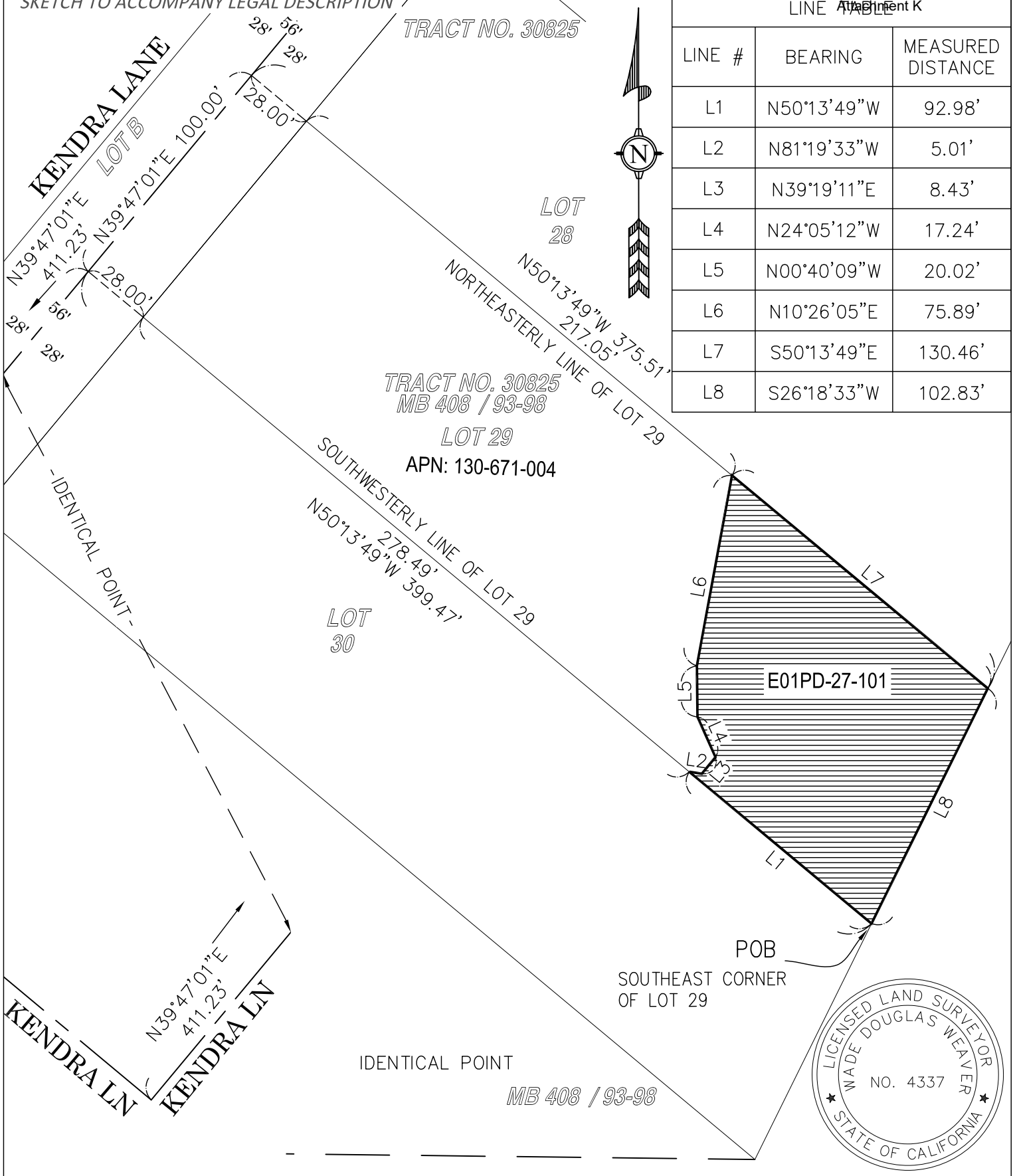
Kevin Hills, County Surveyor, L.S. 6617



_____ Date: 10/14/20

By: Wade Douglas Weaver, L.S. 4337

SKETCH TO ACCOMPANY LEGAL DESCRIPTION



LINE TABLE		
LINE #	BEARING	MEASURED DISTANCE
L1	N50°13'49"W	92.98'
L2	N81°19'33"W	5.01'
L3	N39°19'11"E	8.43'
L4	N24°05'12"W	17.24'
L5	N00°40'09"W	20.02'
L6	N10°26'05"E	75.89'
L7	S50°13'49"E	130.46'
L8	S26°18'33"W	102.83'

LICENSED LAND SURVEYOR
WADE DOUGLAS WEAVER
NO. 4337
STATE OF CALIFORNIA

COUNTY OF ORANGE CALIFORNIA

OC PUBLIC WORKS
OC SURVEY
RIGHT-OF-WAY SERVICES

ROW ID NO. 2016-076

SCALE: 1"=50'

EXHIBIT B
SHEET 1 OF 1

PROJECT: PRADO BASIN PARCEL 27-101

PREPARED BY:
M.Kubisty

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Jaraschai Suwan and Sudaluck Suwan, husband and wife as joint tenants ("Owner") and located at 8628 Kendra Lane in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-27-098, which covers Riverside County Assessor's Parcel Number ("APN") 130-671-001, (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD-27-098, which covers portions of Riverside County Assessor's Parcel No. 130-671-001.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $137,600, Job No. ESP2146; to be paid from Fund 404-080-404-LS55-4100-ESP2146.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS55-4100-ESP2146, Job No. ESP2146) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $137,600 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the

owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $137,600.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-098

That portion of Lot 26, Tract No. 30825, in the City of Eastvale, County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 inclusive of Maps in the office of the County Recorder of said County, described as follows:

BEGINNING at the southeast corner of said Lot 26;

thence along the southwesterly line of said Lot, North 50° 13' 49" West 128.38 feet;

thence leaving said line, North 24° 05' 43" East 21.44 feet;

thence North 33° 39' 13" East 74.79 feet to the northeasterly line of said Lot;

thence along said northeasterly line, South 50° 13' 49" East 112.44 feet to the northeast corner of said Lot;

thence along the easterly lines of said Lot, the following two courses:

1. South 18° 36' 08" West 50.47 feet;
2. South 26° 18' 23" West 49.31 feet to the **POINT OF BEGINNING**.

Containing an area of 11,740 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

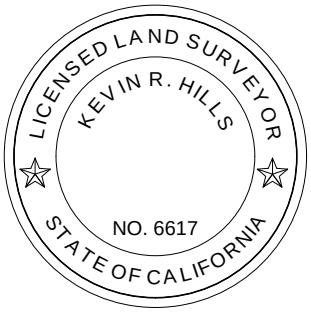
See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin R. Hills

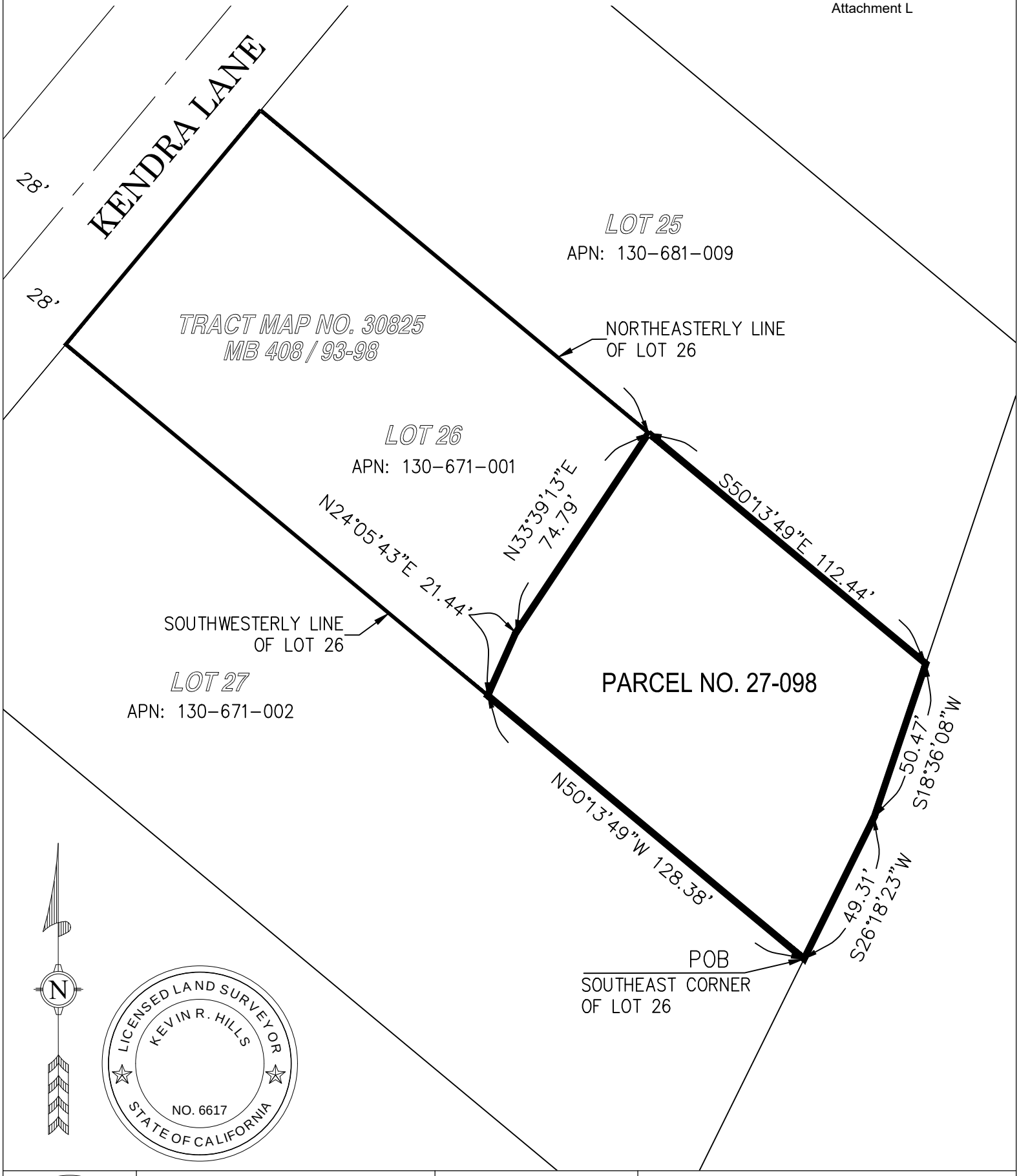
Date: **10/14/2020**

Kevin R. Hills, County Surveyor, L.S. 6617



SKETCH TO ACCOMPANY LEGAL DESCRIPTION

Attachment L



COUNTY OF ORANGE CALIFORNIA	OC PUBLIC WORKS OC SURVEY RIGHT-OF-WAY SERVICES	ROW ID NO. 2016-074 SCALE: 1"=40'	EXHIBIT B SHEET 1 OF 1
	PROJECT: PRADO BASIN PARCEL NO. 27-098		PREPARED BY: R. RIVERA

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Jacqueline Brumfield, an unmarried woman ("Owner") and located at 8614 Kendra Lane in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 27-097, which covers Riverside County Assessor's Parcel Number ("APN") 130-681-009 (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020 Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts

with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD 27-097, which covers portions of Riverside County Assessor's Parcel No. 130-681-009.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $111,600, Job No. ESP2130; to be paid from Fund 404-080-404-LS39-4100-ESP2130

.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section

1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS39-4100-ESP2130, Job No.ESP2130) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $111,600 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or

payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $111,600.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-097

That portion of Lot 25 of Tract No. 30825, in the County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 inclusive of Maps, in the office of the County Recorder of said County described as follows:

COMMENCING at the southeast corner of said Lot 25; thence along the southwesterly line of said Lot, North 50° 13' 49" West 112.44 feet;

thence leaving said line, North 44° 27' 19" East 95.32 feet to the northeasterly line of said lot;

thence along said line, South 50° 13' 49" East 67.86 feet to the northeast corner of said lot;

thence along the easterly line of said Lot, South 18° 36' 08" West 101.88 feet to the **POINT OF BEGINNING**.

Containing an area of 8,565 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.99998330 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

Kevin Hills, County Surveyor, L.S. 6617

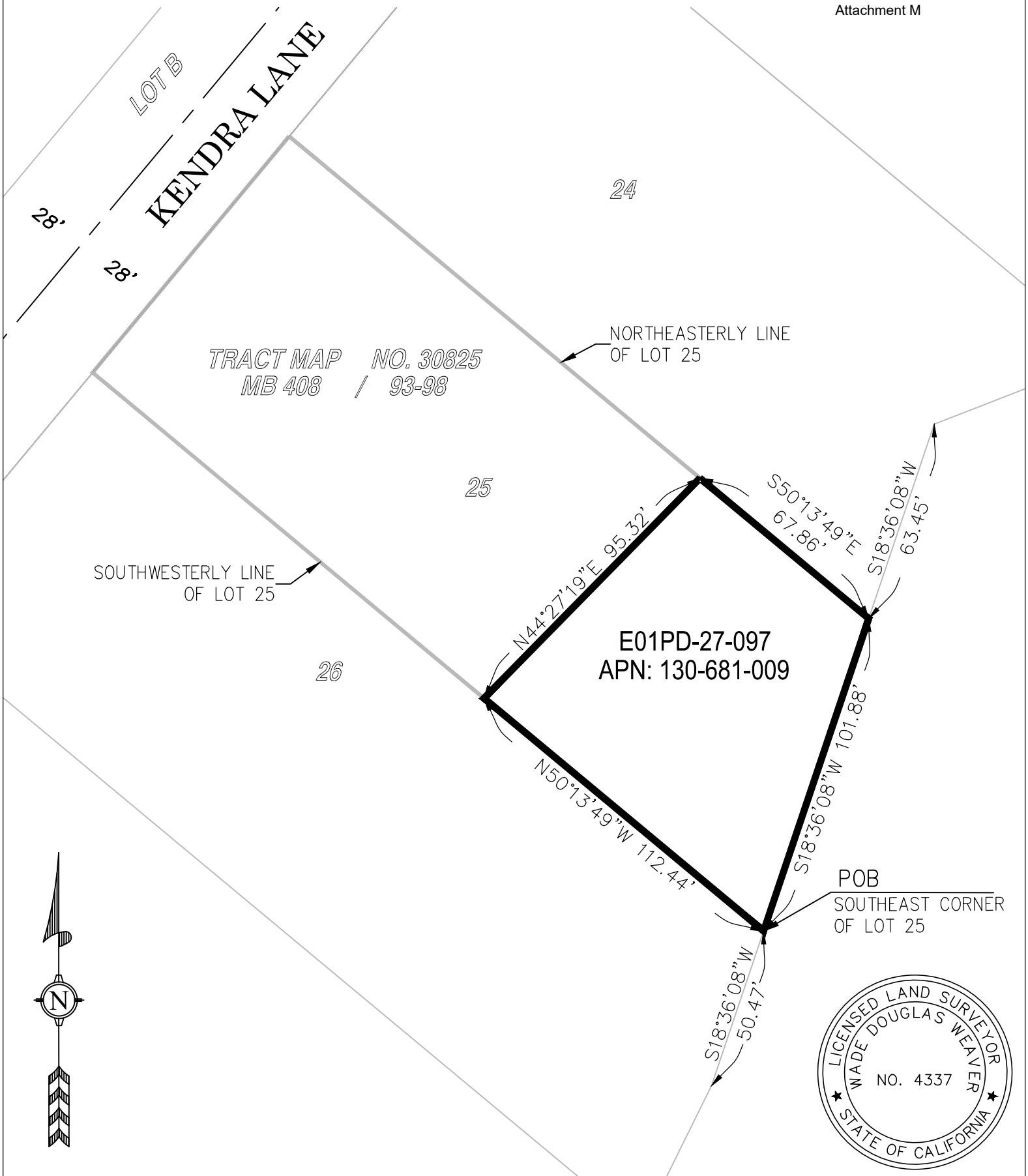


_____ Date: 10/14/2020

By: Wade Douglas Weaver, L.S. 4337

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

Attachment M



COUNTY OF ORANGE CALIFORNIA	OC PUBLIC WORKS OC SURVEY RIGHT-OF-WAY SERVICES	ROW ID NO. 2016-067 SCALE: 1"=40'	EXHIBIT B SHEET 1 OF 1
	PROJECT: PRADO BASIN PARCEL 27-097		PREPARED BY: J. SMITH

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Ravindranath and Durga Tadiparthy, husband and wife as community property with right of survivorship ("Owner") and located at 8600 Kendra Lane in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 27-096, which covers Riverside County Assessor's Parcel Number ("APN") 130-681-008, (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020 Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts

with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD 27-096, which covers portions of Riverside County Assessor's Parcel No. 100-681-008.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $94,800, Job No ESP2161; to be paid from Fund 404-080-404-LS77-4100-ESP2161.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section

1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS77-4100-ESP2161 , Job No.ESP2161) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $94,800 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or

payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $94,800.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-096

That portion of Lot 24 of Tract No. 30825, in the County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 inclusive of Maps, in the office of the County Recorder of said County described as follows:

COMMENCING at the southwest corner of said Lot 24;

Thence along the southwesterly line of said Lot, South 50° 13' 49" East 165.19 feet to the **TRUE POINT OF BEGINNING**;

Thence leaving said line North 50° 24' 40" East 65.41 feet;

Thence North 39° 09' 49" East 25.60;

Thence North 53° 37' 25" East 20.73 feet to the northeasterly line of said lot;

Thence along said line South 50° 13' 49" East 56.35 feet to the northeast corner of said lot;

Thence along the southeasterly line of said Lot, South 68° 45' 18" West 58.13 feet;

Thence continuing along said southeasterly line, South 18° 36' 08" West 63.45 feet to the southeast corner of said Lot;

Thence along the southwesterly line of said Lot, North 50° 13' 49" West 67.86’ to the **TRUE POINT OF BEGINNING**.

Containing an area of 5,358 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

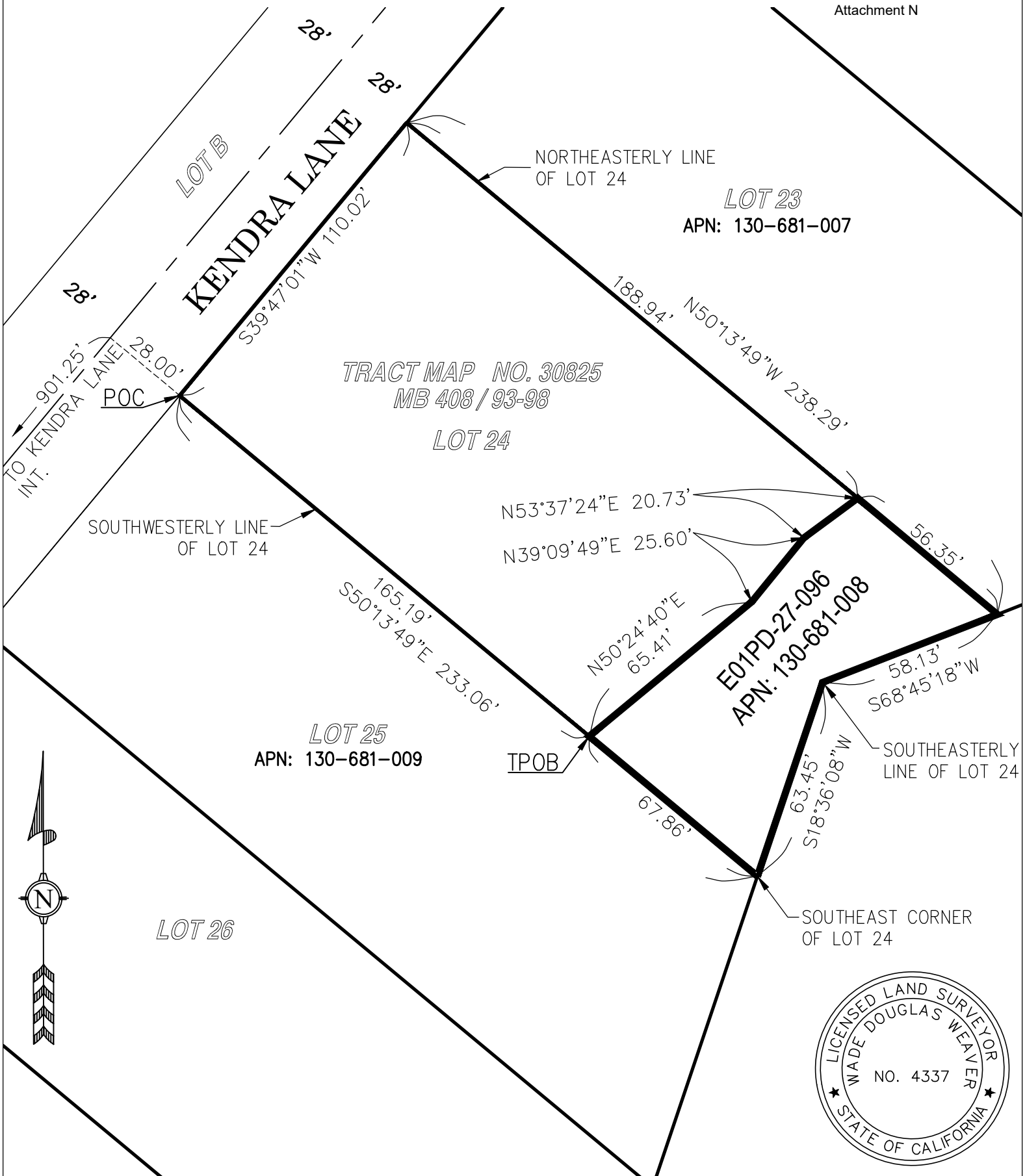
Kevin Hills, County Surveyor, L.S. 6617



_____ Date: 10-14-2020

By: Wade Douglas Weaver, L.S. 4337

SKETCH TO ACCOMPANY LEGAL DESCRIPTION



COUNTY OF ORANGE CALIFORNIA	OC PUBLIC WORKS OC SURVEY RIGHT-OF-WAY SERVICES	ROW ID NO. 2018-141 SCALE: 1"=40'	EXHIBIT B SHEET 1 OF 1
	PROJECT: PRADO BASIN PARCEL 27-096		PREPARED BY: J. SMITH

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

December 15, 2020

WHEREAS, this Resolution of Necessity ("Resolution") seeks to acquire property interests in the real property currently owned by Kurtis J. Lepper and Kimberly L. Lepper, husband and wife as joint tenants ("Owner") and located at 8586 Kendra Lane in the City of Eastvale, County of Riverside, California, and whereas the property interests to be acquired ("Subject Property Interests") consist of:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 27-095, which covers Riverside County Assessor's Parcel Number ("APN") 130-681-007, (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of

the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

WHEREAS, on or before November 30, 2020, pursuant to the requirements of California Code of Civil Procedure section 1245.235, the Clerk of the Board ("Clerk") mailed notice to the Owner, *inter alia*, at the address shown by the last equalized Riverside County assessment roll, of the intention of the Orange County Board of Supervisors ("Board"), acting in its capacity as the governing board of the District, to adopt this Resolution to acquire the Subject Property Interests for purposes of the District's Santa Ana River Mainstem/Prado Dam Project ("Project"), through eminent domain proceedings, and of the date set for a hearing thereon of December 15, 2020;

WHEREAS, said notice by the Clerk notified the Owner of its right to appear and to be heard at a December 15, 2020 hearing before the Board on the following matters: (a) whether the public interest and necessity require the Project; (b) whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (c) whether the Subject Property Interests sought to be acquired are necessary for the Project; and (d) whether the offer required by section 7267.2 of the Government Code has been made to the owner(s) of record;

WHEREAS, on December 15, 2020, the Board conducted a public hearing and heard and considered public comments, if any, and evidence presented, regarding the Project and regarding the proposed eminent domain acquisition of the Subject Property Interests; and,

WHEREAS, at the close of the public hearing and after the opportunity for open and public discussion among the Board, the Board voted, by more than the statutorily required two-

thirds' majority of the Board membership, to adopt this Resolution to acquire the Subject Property Interests necessary for the Project through eminent domain proceedings.

NOW, THEREFORE, after consideration of the information contained above as well as in the December 15, 2020 Supplemental Agenda Staff Report,

IT IS HEREBY RESOLVED that this Board finds and determines as follows:

1. Under the California Environmental Quality Act ("CEQA"):

a. Final Environmental Impact Report No. 583 (Final EIR No. 583) was previously certified on November 28, 1989, and reflects the independent judgment of the Orange County Flood Control District (District) as Lead Agency. Final Supplemental Environmental Impact Statement/Environmental Impact Report No. 583 (Final Supplemental EIS/EIR No. 583) was previously certified by the Orange County Planning Commission on December 19, 2001, and reflects the independent judgment of the Orange County Planning Commission as Lead Agency. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed and fully analyzed project environmental impacts for the Santa Ana River Mainstem Project, as well as the Prado Dam Project, which is a necessary and contemplated element of the Santa Ana River Mainstem Project. Both the Final EIR No. 583 and the Final Supplemental EIR/EIS No. 583 are complete and adequately satisfy the requirements of CEQA for the Santa Ana River Mainstem Project, which includes the Prado Dam Project.

b. The circumstances of the Project are substantially the same as when Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified, and Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 adequately addressed the effects of the proposed Project. No substantial changes have been made in the Project, no substantial changes have occurred in the circumstances under which the Project is being undertaken and no new information of substantial importance to the Project that was not known or could not have been known when the Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 were certified has become known in relation to these proposed condemnation actions. Thus, no further CEQA review is required.

c. Final EIR No. 583 and Final Supplemental EIS/EIR No. 583 are adequate to satisfy the requirements of CEQA for the proposed condemnation actions.

d. All mitigation measures are fully enforceable pursuant to CEQA, Public Resources Code Section 21081.6(b), and have either been adopted as conditions, incorporated as part of the Project design or included in the procedures of Project implementation.

2. Direct and authorize County Counsel and/or outside eminent domain counsel, the firms of Burke, Williams & Sorensen and Murphy and Evertz, pursuant to their existing contracts with the District, to initiate condemnation proceedings to condemn the following interest in real property. Permanent flowage easement interest in real property referred to by the District as Project Parcel No. E01PD 27-095, which covers portions of Riverside County Assessor's Parcel No. 130-681-007.

3. Direct and authorize the Auditor-Controller, upon request by County Counsel, to encumber funds and transfer estimated compensation to the State Treasurer's Condemnation Deposits Fund, in amounts to be specified by County Counsel, in a total amount up to $94,500, Job No ESP2162; to be paid from Fund 404-080-404-LS78-4100-ESP2162.

4. The public interest and necessity require the Project for the purposes specified by California uncodified Water Code, Act 5682, section 2, also referred to as Water Code App. Sections 36-1 et seq. (the "Orange County Flood Control Act"), including but not limited to the control of flood and storm waters in order to protect the safety, health and welfare of residents and properties within the County of Orange from the potentially devastating effects of a 190-year flood/storm event.

5. The District is authorized to acquire the Subject Property Interests and to exercise the power of eminent domain for the public uses set forth herein under the California Constitution, the California eminent domain law (Code of Civil Procedure Sections 1230.010 et seq., and 1240.010 et seq., including without limitation Section 1240.110), Government Code Section 25350.5, and the Orange County Flood Control Act. The Subject Property Interests are located in Riverside County and the District is exercising its power of eminent domain

extraterritorially pursuant to, *inter alia*, Sections 2 and 16 of the Orange County Flood Control Act.

6. The Project, which will raise the Prado Dam flood basin and expand the potential inundation area up to 566 feet above sea level, is planned and located in the manner that will be the most compatible with the greatest public good and least private injury.

7. The Subject Property Interests are necessary for the Project. It is necessary that the District acquire the Subject Property Interests to carry out the Project's essential flood control purposes. If the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury, and/or loss of life suffered by those downstream in Orange County.

8. The Subject Property Interests will be used for the Project, which constitutes a valid public use. Therefore, the Subject Property Interests will in fact be a public use.

9. In conformance with Sections 7267.1 and 7267.2 of the California Government Code and Board of Supervisors Resolution 67-612, an appraisal was prepared covering the Subject Property Interests. An offer based on said appraisal was made to the Owner of the Subject Property Interests, and a written statement showing the appraised value of the Subject Property Interests and summarizing the basis of that valuation was also delivered to the Owner.

10. The necessary notice of hearing on this Resolution has been given, as required by Code of Civil Procedure section 1245.235.

11. To the extent the Subject Property Interests are already devoted to a public use, the use of the Subject Property Interests for the District's Project is a compatible use that will not

unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future (California Code of Civil Procedure Section 1240.510), or the use of the Subject Property Interests for the Project is a more necessary public use than is the presently existing public use (California Code of Civil Procedure Section 1240.610).

IT IS FURTHER RESOLVED that the Subject Property Interests be acquired by the District, and that the County Counsel of the County of Orange and/or outside counsel, Burke, Williams & Sorensen and Murphy and Evertz, pursuant to its existing contract with the District as previously authorized by this Board for purposes of representing the District in condemnation matters (collectively, "District's Counsel"), are hereby directed and authorized to institute eminent domain proceedings for the foregoing acquisition, to do, perform, and carry out all necessary proceedings and steps incident to acquiring the Subject Property Interests, to correct any errors or to make or agree to non-material changes in the legal description of the Subject Property Interests as may be necessary for the conduct of the action or other proceedings or transactions required to acquire the Subject Property Interests, and to seek and obtain an order for prejudgment possession of some or all of the Subject Property Interests at such time as District's Counsel deems it to be necessary and appropriate.

IT IS FURTHER RESOLVED that the Orange County Auditor-Controller is directed and authorized to encumber required funds (from Fund 404-080-404-LS78-4100-ESP2162, Job No. ESP2162) and to issue funds, as necessary and requested by County Counsel, in the total amount of up to $94,500 the total estimated fair market value of the Subject Property Interests as of the date of value of the appraisal, which was the basis of the purchase offer made to the

owner; and to encumber such additional funds, and issue such additional funds as may be requested by County Counsel, and as necessary to satisfy any court orders for higher deposits or payment of greater compensation, and as necessary to pay for title insurance and other fees following transfer of ownership of the Subject Property Interests to the District. Using those encumbered funds and the funds issued by the Auditor-Controller, District's Counsel are hereby directed and authorized to make deposits of estimated compensation with the State Treasury's Condemnation Deposits Fund in an amount up to $94,500.

IT IS FURTHER RESOLVED that this Resolution shall be effective immediately upon its adoption, and that the Clerk of the Board shall certify the adoption of this Resolution and certify this record to be a full true, correct copy of the action taken.

EXHIBIT A

LEGAL DESCRIPTION

Santa Ana River – Prado Dam Basin
Facility No: E01PD
Parcel No.: 27-095

That portion of Lot 23 of Tract No. 30825, in the County of Riverside, State of California, as per map filed in Book 408, Pages 93 through 98 inclusive of Maps, in the office of the County Recorder of said County described as follows:

COMMENCING at the southeast corner of said Lot 23;

thence along the southwesterly line of said Lot, North 50° 13' 49" West 56.35 feet;

thence leaving said line North 48° 56' 00" East 37.67 feet;

thence North 52° 51' 41" East 64.48 feet to the northeasterly line of said lot;

thence along said line South 50° 13' 49" East 54.53 feet to the northeast corner of said lot;

thence along the easterly line of said Lot, South 41° 02' 48" West 68.87 feet;

thence continuing along said easterly line South 68° 45' 18" West 35.61 feet to the **POINT OF BEGINNING**.

Containing an area of 6,197 Square Feet, more or less.

ALL DISTANCES SHOWN ARE GRID, UNLESS OTHERWISE NOTED. DIVIDE A GRID DISTANCE BY 0.9999833 TO OBTAIN A GROUND DISTANCE.

See EXHIBIT B attached and by reference made a part hereof.

APPROVED

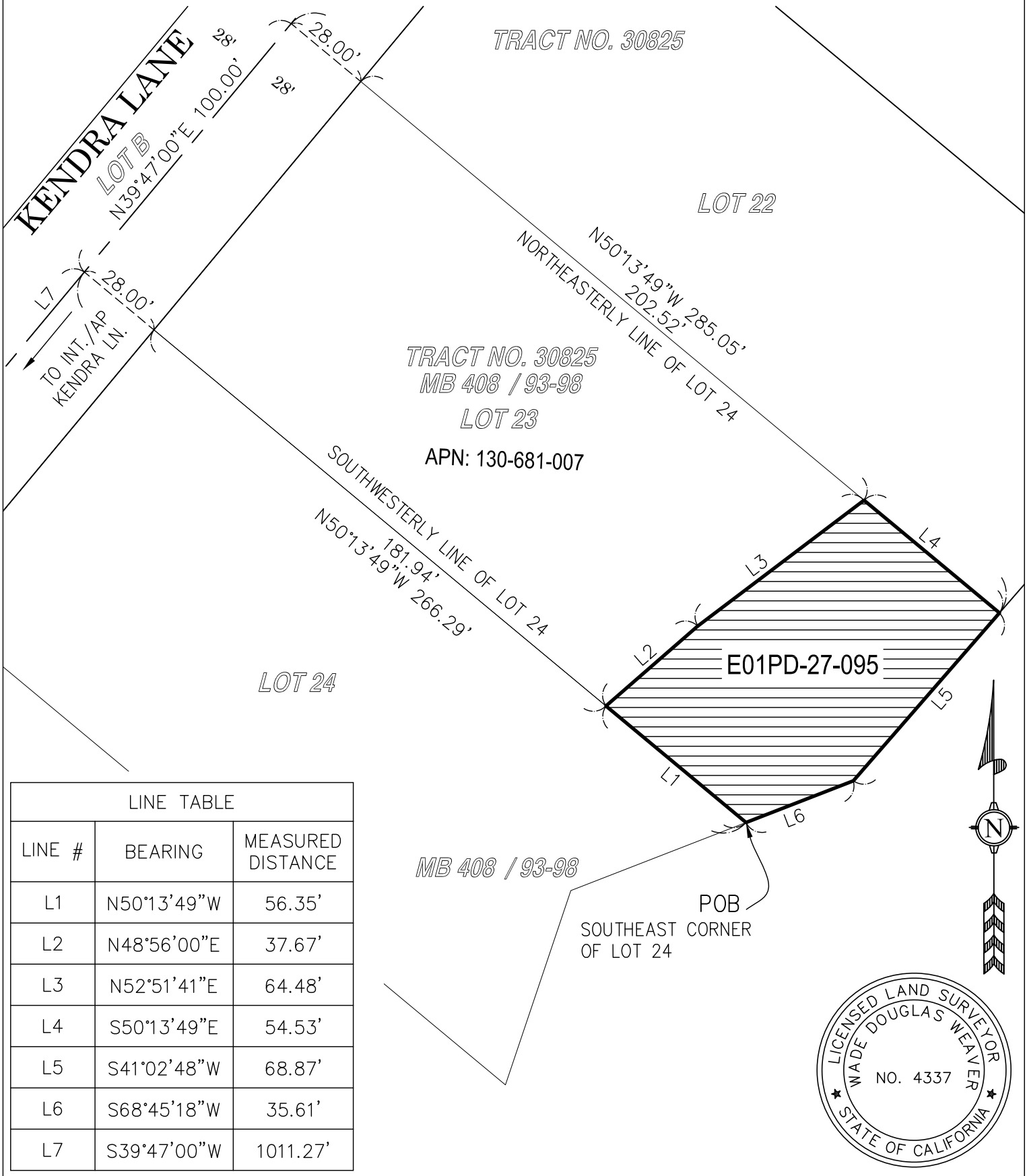
Kevin Hills, County Surveyor, L.S. 6617



_____ Date: 10/16/20

By: Wade Douglas Weaver, L.S. 4337

SKETCH TO ACCOMPANY LEGAL DESCRIPTION



LINE TABLE		
LINE #	BEARING	MEASURED DISTANCE
L1	N50°13'49"W	56.35'
L2	N48°56'00"E	37.67'
L3	N52°51'41"E	64.48'
L4	S50°13'49"E	54.53'
L5	S41°02'48"W	68.87'
L6	S68°45'18"W	35.61'
L7	S39°47'00"W	1011.27'

LICENSED LAND SURVEYOR
WADE DOUGLAS WEAVER
NO. 4337
STATE OF CALIFORNIA

COUNTY OF ORANGE CALIFORNIA

OC PUBLIC WORKS
OC SURVEY
RIGHT-OF-WAY SERVICES

ROW ID NO. 2018-142

SCALE: 1"=40'

EXHIBIT B
SHEET 1 OF 1

PROJECT: PRADO BASIN PARCEL 27-095

PREPARED BY:
M.Kubisty

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described and depicted as shown in Attachment 1 and Attachment 2 to the proposed Resolution, consisting of project parcel no. E01PD-33-017 & 33-018, which is a portion of Riverside County Assessor's Parcel Number ("APN") 130-070-011 & 012, located at 8230 Grapewin Street, Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury***; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____ _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Kurt R. and Adele K. de Steuben, 8230 Grapewin Street, Eastvale, CA 92880-9639

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-40-063, which is a portion of Riverside County Assessor's Parcel Number ("APN") 144-100-018 , located at 14739 Chandler Street in Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

> excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether***

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____,_____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Joao S. Pires and Maria De Lourdes Pires, Trustees of the Joao S. Pires and Maria De Lourdes Family Trust dated 9/24/08 14739 Chandler Street Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-005, which is a portion of Riverside County Assessor's Parcel Number ("APN") 121-060-003, located at 4015 Bluff Street, Norco, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury***; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____ _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Clinton Ogier, 4015 Bluff Street, Norco, CA 92860-2243

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-048, which is a portion of Riverside County Assessor's Parcel Number ("APN") 121-310-005 , located at 2563 Wagon Wheel Road, Norco, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

> excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether***

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____,_____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Steven M. Westerlin 2563 Wagon Wheel Road Norco, CA 92860

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD-21-111, which is a portion of Riverside County Assessor's Parcel Number ("APN") 121-050-032, located at 4628 Bluff Street, Corona, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury***; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____

(Signature)

DECLARATION OF MAILING

_____

(Name) (Title)

on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Truc Lam Buddhist Center, 4620 Bluff Street, Corona, CA 92880-9704

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____

(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Addendum A-1 and depicted on Addendum A-2 to the proposed Resolution, consisting of project parcel no. E01PD-27-102, which is a portion of Orange County Assessor's Parcel Number ("APN") 130-671-005 , located at 8684 Kendra Lane, Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury***; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____,_____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on November 30, 2020, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Bing Zhou and Fengzi Mei-8684 Kendra Lane, Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Addendum A-1 and depicted on Addendum A-2 to the proposed Resolution, consisting of project parcel no. E01PD-27-101, which is a portion of Orange County Assessor's Parcel Number ("APN") 130-671-004, located at 8670 Kendra Lane, Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area, No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury***; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____,_____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Richard S. Wibbens and Michele A Wibbens 8670 Kendra Lane Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 27-098, which is a portion of Riverside County Assessor's Parcel Number ("APN") 130-671-001, located at 8628 Kendra Lane, Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

> excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether***

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors, at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on November 30, 2020, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Jaraschai and Sudaluck Suwan 8628 Kendra Lane Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 27-097, which is a portion of Riverside County Assessor's Parcel Number ("APN") 130-681-009, located at 8614 Kendra Lane, Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether***

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____,_____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on November 30, 2020, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Jacqueline Brumfield 8614 Kendra Lane Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. E01PD 27-096, which is a portion of Riverside County Assessor's Parcel Number ("APN") 130-681-008, located at 8600 Kendra Lane, Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

> excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether***

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____,_____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on _____, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Ravindranath and Durga Tadiparthy 8600 Kendra Lane Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure section 1245.235, that the Board of Supervisors of the County of Orange (the "Board"), acting as the governing board of the Orange County Flood Control District (the "District"), intends to consider for adoption a resolution of necessity (the "Resolution"), a copy of which as proposed is attached to this Notice, determining the necessity to acquire, through eminent domain proceedings, an easement for flowage purposes over certain real property more specifically described below (the "Subject Property Interests") – for purposes of the District's Santa Ana River Mainstem/Prado Dam project (the "Project"). The Subject Property Interests consist of the following:

> A perpetual right, power, privilege and easement in, on, over, under, and across the surface of that real property legally described by Exhibit A and depicted on Exhibit B to the proposed Resolution, consisting of project parcel no. _E01PD 27-095, which is a portion of Riverside County Assessor's Parcel Number ("APN") 130-681-007, located at 8586 Kendra Lane, Eastvale, California (the "Easement Area"), to overflow, flood and/or submerge such real property including the right to cause, without limitation, erosion and/or deposition and associated damages to said Easement Area and any and all structures and improvements situated thereon, in connection with the operation, maintenance, repair, rehabilitation, restoration and improvement of the Prado Dam and reservoir/basin, together with all right, title and interest in and to the structures and improvements now situated on said Easement Area. No structures for human habitation shall be constructed or maintained on the Easement Area. No other structures shall be constructed or maintained within the Easement Area, except as may be approved in writing by the authorized representative of the easement holder. No excavation, drilling or mining shall be conducted, and no landfill placed on the Easement Area without easement holder approval as to the location and method of

> excavation, drilling, mining, and/or placement of landfill. The Subject Property Interests are subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to underlying fee owner all such rights and privileges as may be used without abridging the rights and easement hereby acquired, and provided that any use of the Easement Area shall be subject to all applicable laws including, but not limited, to laws regarding the environment.

The Subject Property Interests are being considered for acquisition through eminent domain proceedings because District staff believes they are required for the essential flood control purposes of the District with respect to the District's Project; that if the Subject Property Interests were not acquired, the Project could not proceed as planned, which in turn would result in inadequate flood protection downstream of the Prado Dam, potential flooding of, or damage to, State Route 91, and a significant risk of property damage, personal injury and/or loss of life suffered by those downstream in Orange County; and that it is also necessary that the District acquire the Subject Property Interests because that area will itself be exposed to a greater risk of inundation as a result of the increased capacity of the Project reservoir.

YOU ARE HEREBY NOTIFIED that the public hearing by the Board to consider adoption of the Resolution is set for 9:30 a.m. (or as soon thereafter as the Board meeting reaches the agenda item relating to this public hearing) on December 15, 2020, at the Board of Supervisors' Hearing Room, First Floor, County Hall of Administration, 333 W. Santa Ana Blvd., Santa Ana, California.

YOU ARE HEREBY FURTHER NOTIFIED that you must file a written request to appear and be heard within fifteen (15) days of the mailing of this Notice by filing or delivering a written request to the address below if you desire to appear and be heard on: (1) whether ***the public interest and necessity require the Project***; (2) ***whether***

the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; (3) ***whether the Subject Property Interests sought to be acquired are necessary for the Project***; and (4) ***whether the offer required by section 7267.2 of the Government Code has been made to the owner of record***.

Clerk of the Board of Supervisors
Post Office Box 687
Hall of Administration, Fourth Floor
333 W. Santa Ana Blvd.
Santa Ana, California 92702

You may use the following page of this Notice for this purpose to notify the Board of Supervisors of your intent and desire to be heard. Your failure to file a written request to appear and be heard within fifteen (15) days after this Notice was mailed may result by law in a waiver of your right to be heard. For further information, please contact Robin Stieler, Clerk of the Board of Supervisors at (714) 834-3324.

REQUEST TO BE HEARD ON RESOLUTION DETERMINING THE NECESSITY TO ACQUIRE AND CONDEMN, THROUGH EMINENT DOMAIN, REAL PROPERTY FOR THE SANTA ANA RIVER MAINSTEM/ PRADO DAM PROJECT

Name_____

Address_____

_____

Telephone Number_____

Dated: _____

_____
(Signature)

DECLARATION OF MAILING

_____, _____,
(Name) (Title)
on behalf of the County of Orange, CEO Real Estate Department, hereby declares as follows:

That on November 30 2020, I mailed, postage prepaid, a copy of the attached NOTICE OF INTENTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE, CALIFORNIA, ACTING AS THE GOVERNING BOARD OF THE ORANGE COUNTY FLOOD CONTROL DISTRICT, TO CONSIDER FOR ADOPTION A RESOLUTION DETERMINING THE NECESSITY OF ACQUISITION BY EMINENT DOMAIN OF REAL PROPERTY to the record owner of the real property which may be acquired and whose names and addresses appear on the last equalized assessment rolls. The names and addresses of all persons the attached Notice was mailed to are as follows:

		Notice Recipients – Names and Addresses
		Kurtis J. and Kimberly L. Lepper 8586 Kendra Lane Eastvale, CA 92880

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED at Santa Ana, California, this ____ day of _____, 2020.

_____
(Signature)

S37I

MEMORANDUM

To: Clerk of the Board

From: Doug Chaffee, Fourth District Supervisor
Andrew Do, First District Supervisor

Date: December 9. 2020

RE: Supplemental Item for the December 15, 2020 Board of Supervisors Meeting – National Homeless Persons' Memorial Day Resolution

Subject: NATIONAL HOMELESS PERSONS' MEMORIAL DAY RESOLUTION

Supervisor Doug Chaffee and Supervisor Andrew Do respectfully requests the Clerk of the Board to add a supplemental item to the agenda for the December 15, 2020 Board of Supervisors meeting. We will be seeking Board approval for the attached National Homeless Persons' Memorial Day Resolution.

RECEIVED
2020 DEC 10 AM 10:11
BOARD OF SUPERVISORS

NATIONAL HOMELESS PERSONS'

MEMORIAL DAY

WHEREAS December 21, 2020 marks the 30th anniversary of the observance of National Homeless Persons' Day; and

WHEREAS since 1990, the National Coalition for the Homeless has sponsored National Homeless Persons' Day every year on December 21st, the first day of winter and the longest night of the year, to bring attention to the tragedy of homelessness and to remember those who have died while living without a permanent home; and

WHEREAS according to the United States Census Bureau, there were 40.6 million Americans in poverty in 2016, and poverty increases an individual's risk of homelessness and poor health outcomes; and

WHEREAS compared to the general population, individuals who are homeless are at greater risk of infectious and chronic illness, violence, injury, poor mental health, substance abuse, and death; and

WHEREAS according to the County of Orange's 2019 Point in Time Count, 6,860 individuals experienced homelessness in Orange County; and

WHEREAS, by joining together and remembering our neighbors, we can honor the lives of individuals lost due to homelessness by working to provide solutions to end homelessness within Orange County.

NOW, THEREFORE, BE IT RESOLVED that we do hereby proclaim December 21, 2020 as

NATIONAL HOMELESS PERSONS' MEMORIAL DAY.

Board of Supervisors

Memorandum

S37J

RECEIVED
2020 DEC 10 AM 10:23
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

December 10, 2020

To: Clerk of the Board

From: Supervisor Lisa Bartlett, 5th District

Subject: Reappointment to Coto de Caza Planning Advisory Committee

Please add the following items to the supplemental calendar for the December 15, 2020 Board meeting agenda. The title of the item should read:

Supervisor Bartlett:
Coto de Caza Planning Advisory Committee – Reappoint Mike Ameel, Coto de Caza, as Advisory Committee Member 5 for Term of Office ending 1/31/22.

Coto de Caza Planning Advisory Committee – Reappoint Diane Ontko, Coto de Caza, as Advisory Committee Member 6 for Term of Office ending 1/31/22.

Supervisor Lisa Bartlett

Chair Michelle Steel

Application to Boards, Commissions, and Committees

Directions: **Please answer each question that applies to you as completely as possible.**
Return completed application to: The Honorable Lisa A. Bartlett
Orange County Board of Supervisors
333 W. Santa Ana Blvd
Santa Ana, CA 92701

1. Name: ~~Ms.~~ ~~Mrs.~~ Mr. Michael (First Name) F. (Middle Initial) Ameel (Last Name)
2. Residence Address: _____ (Street Address) _____ (City) _____ (State) _____ (Zip)
3. Home Phone Number: (_____) _____ (Area Code) (Number)
4. How long have you lived at this residence? ~~XX~~ 16 Year(s) ~~X~~ 3 Month(s)
5. Occupation/Title: Real Estate Broker/Broker Owner Coto de Caza Real Estate
6. Business Address: _____
7. Business Phone Number: _____ (Area Code) _____ (Number)
8. Email Address: _____
9. Name the Board, Commission, or Committee you are applying for an appointment to:
~~Coto de Caza Advisory Board~~ Coto de Caza Planning Advisory Committee
10. Are you a citizen of the United States? Yes ~~XX~~ Name the Country of citizenship: _____
11. Are you a registered voter?* Yes ~~XX~~ If yes, name County you are registered in: Orange
12. Name the supervisorial district you live in.* ~~First~~ ~~Second~~ ~~Third~~ ~~Fourth~~ Fifth
13. Employment History: Attach resume to this application.
14. **Educational History: Should be included in resume**
15. List all current professional or community organization and societies of which you are a member

	Organization/Society	From (mo./yr.)	To (mo./yr.)
1.	Calif & National Assn of Realtors	April 1974	Present
2.	Apartment Owners Assn of Orange County	1986	Present
3.	Rotary Club of Coto de Caza/RSM	1995	2013
4.	Coto de Caza Golf & Racquet Club	1995	Present

*If necessary, call the Clerk of the Board's Office at 714-834-2206 for this information.

5. Orange County Assn of Realtors LGRS
(Local Government Relations Committee South) 2018 to Present.

16. Within the last five years have you been affiliated with any business or nonprofit agency(ies) Yes ~~No~~

17. Do you own real or personal property or have financial holdings which might present a potential conflict of interest? Yes ~~No~~

18. Have you ever been convicted of any federal, state, county or municipal law, regulation or ordinance, excluding minor traffic violations? Yes No If yes, please explain **:
No

19. Are you currently under federal, state, or local investigation for possible violation of a criminal law or ordinance? Yes No If yes, please explain **:
No

20. Please briefly explain why you wish to serve on this Board, Committee, or Commission. **
I have been actively involved in many aspects of the community of Coto de Caza since moving here from Irvine in 1993. It is my wish that the integrity and character of the community be maintained and preserved in perpetuity for generations to come.

Applicant's Signature

Mike Lucci

Signature

Coto de Caza Resident

Title

12/9/2020

Date

**Attach additional sheets if necessary

LAND USE QUESTIONNAIRE

How would you rate your knowledge of land use?

☐ Unfamiliar ☒ Familiar ☐ Extensive

How do you define property rights?

Property rights are basically the rights to buy, sell, use, maintain and receive benefits from property and are sometimes referred to as human rights. Property rights are, at times, subject to government regulation, which may in some cases limit those rights.

What do you consider appropriate and inappropriate use of government regulation?

Government regulations should first be established to allow the appropriate and predictable use of a given property to protect the interests of the property owner. Secondly, government regulations should be carefully maintained so that future owners, beneficiaries and public interests are not compromised.

How do you view the need for economic development in your community?

Our private, gated equestrian community is almost completely built out with the exception of a few vacant parcels. We have only a limited amount of commercial property within our community that would be essential in generating tax revenue should Coto decide to become a city at some point in the future. As the past chairman of the CZ Master ad hoc Future Governance Committee this has always been an issue to be dealt with when trying to make decisions about future governance options.

What would you define is the ideal jobs-to-housing balance?

The ratio of housing to job growth and VMD is already established in our community. I don't forsee any changes in this balance as our community is nearly completely built out. The Lyon property will add only 28 lots +/-, and only a few other vacant properties still exist within our community.

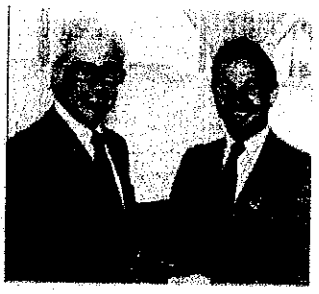
What is your vision for your community? What will it look like in the next 10-30 years.

I came to Coto for the first time in 1975 to play tennis at Vic Braden's tennis center at the CVCC. I brought my wife to be here in 1977, the first thing we saw after entering the north entrance at the stop sign was a doe and her fawn standing there. Its something we will never forget. The rural nature, open spaces, panoramic views, historical equestrian center, horse and walking trails along with the CDC G& R Club make this a very special place to live. I have a committment to see that Coto maintains its amazing amenities and lifestyle for generations to come.

Mike Ameel's Resume

Professional:

- **Century 21 Real Estate, Costa Mesa**
  - Real Estate Licensee 1974
  - $1 Million Dollar Club Member
- **Member of the Costa Mesa/Newport Harbor Board of Realtors**
- **Member of the California and National Associations of Realtors**
- **Century 21 Real Estate**
  - Sales Manager 1975-1977
  - Brokers License 1976
- **International Real Estate Network**
  - Owner/Broker, 1977-1980
- **Apartment Association of Orange County**
  - Member of AAOC, 1978-Present
- **Realty Investment Association of Orange County**
  - Member of RIAOC, 1976-1990
- **Donald M. Bird & Associates 1980-1989**
  - Top Residential Investment Broker
- **Member of the East Orange County Association of Realtors**
- **Mike Ameel Properties**
  - Woodbridge/Irvine Residential Investments, 1989-1993
- **Member of the Irvine Board of Realtors**
- **Lakeview Real Estate/Coto de Caza Office**
  - Coto de Caza Specialist, 1993-1994
- **Member of the South Orange County Association of Realtors**
- **RE/MAX Real Estate Services Coto de Caza/RSM Office**
  - Coto de Caza Specialist, 1994-2008



Awards and Recognition:



- **100% Club**
- **Top 100** RE/MAX Real Estate Services
- **Top 25** RE/MAX Real Estate Services
- **Top 100** RE/MAX of California & Hawaii
- **Top Trophy Listing**, June 2006 - $7.1 Million Dollars
- **Platinum Club-** RE/MAX Highest Award for Commissions until 2004
- **Chairman's Club-** RE/MAX Highest Award for Commissions until 2006
- **International Hall of Fame**
- **Lifetime Achievement Award**- Over 1,000 Homes Sold
- ***Top 1% of Real Estate Agents Nationwide!!!***

Coto de Caza Real Estate ***2008 to Present***

- ***2015 Celebrating 22 Years Serving Coto de Caza Homeowners.***
- ***The Mike Ameel Team is the Top Selling Independent Brokerage in Coto de Caza***
- ***Grand Opening of our Professional Property Management Division Serving the Coto, RSM & Surrounding Areas.***

Education:

- **Warren High School, Downey, California**
  - Graduated in 1967
- **United States Army**
  - Communications Specialist E5 STRATCOM Europe, Darmstadt Germany, 1969-1972
- **Orange Coast College**
  - Graduated AA Degree- Business Management and Marketing, 1974
- **Century 21 Real Estate School/Lumbleau Real Estate School**
  - Real Estate and Brokers Licenses 1974/1976

Community Service:

- **Woodbridge Village Association**
  - Recreation committee, Chairman 1980
- **RSM Intermediate School**
  - Founding Site Council Member 1993-1995
- **Rotary Club of Coto de Caza/Rancho Santa Margarita**
  - Member 1996-2005
  - Club Services Chairman 2001
  - Ed Muldoon Rotarian of the Year Award 2001
  - President 2002-2003
- **Coto de Caza**
  - Coto Residents Against the Airport Committee 1996-2002
  - CZ Master Assn Chairman Ad Hoc Future Governance Committee
- **Member of the Coto de Caza Golf & Racquet Club Board of Governors 2007 to 2013**
  - Chairman of the Membership Committee 2007-2011
  - Member of the Membership Committee 2007-2013
- **Belltower Foundation, Regional Community Center Building Project**
  - Founding Board Member
  - Executive Board Member, Secretary 2002-2005



Hobbies:

- Saltwater Fishing
- Trap/Skeet/Sporting Clay Shooting
- Tennis
- Golf
- Pool
- Texas Hold-em Poker
- Street Rodding
- Wine Tasting/Collecting
- Angels Baseball
- My pets



Family:

- Wife: Linda, Married 5/21/77
- Daughters: Cathy & Melissa, Grandchildren Rosie, Keira, Ana Leigh, Jamison and Aurora.

APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

(FOR COUNTY USE ONLY)

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):
Coto de Caza Planning Advisory Commitee

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: ☐ First ☐ Second ☐ Third ☐ Fourth ☒ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

Diane (First Name) Ellen (Middle Name) Ontko (Last Name)

Street Address / City / State / Zip Code

Home Phone Number / Cell Phone Number

Email Address

CURRENT EMPLOYER: N/A

OCCUPATION/JOB TITLE:

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER:

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: ☒ YES ☐ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER? ☒ YES ☐ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN: Orange

LIST ALL CURRENT PROFESSIONAL OR COMMUNITY ORGANIZATIONS AND SOCIETIES OF WHICH YOU ARE A MEMBER.

ORGANIZATION/SOCIETY	FROM (MO./YR.)	TO (MO./YR.)
Coto de Caza Planning Advisory Committee	2017	present
Ranchos Colinas Board of Directors	2013	present
California Master Gardeners	2017	present

WITHIN THE LAST FIVE YEARS, HAVE YOU BEEN AFFILIATED WITH ANY BUSINESS OR NONPROFIT AGENCY(IES)? ■YES □ NO

DO YOU OWN REAL OR PERSONAL PROPERTY OR HAVE FINANCIAL HOLDING WHICH MIGHT PRESENT A POTENTIAL CONFLICT OF INTEREST? □YES ■ NO

HAVE YOU BEEN CONVICTED OF A FELONY OR MISDEMEANOR CRIME SINCE YOUR 18TH BIRTHDAY? YOU ARE NOT REQUIRED TO DISCLOSE ANY OF THE FOLLOWING: ARRESTS OR DETENTIONS THAT DID NOT RESULT IN A CONVICTION; CONVICTIONS THAT HAVE BEEN JUDICIALLY DISMISSED, EXPUNGED OR ORDERED SEALED; INFORMATION CONCERNING REFERRAL TO AND PARTICIPATION IN ANY PRETRIAL OR POSTRIAL DIVERSION PROGRAM; AND CERTAIN DRUG RELATED CONVICTIONS THAT ARE OLDER THAN TWO YEARS, AS LISTED IN CALIFORNIA LABOR CODE § 432.8 (INCLUDING VIOLATIONS OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 11357(B) AND (C), 11360(C) 11364, 11365 AND 11550 – AS THEY RELATE TO MARIJUANA)?

□YES ■ NO

IF YES, PLEASE EXPLAIN AND ATTACH ADDITIONAL SHEETS, IF NECESSARY.

PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

DATE: December 10, 2020 **APPLICANTS SIGNATURE:** Diane Ouko

CLERK OF THE BOARD OF SUPERVISORS USE ONLY – DO NOT WRITE BELOW THIS LINE

Date Received: _____ Received by: _____
Deputy Clerk of the Board of Supervisors

Date referred: _____

To: □ BOS District 1 □ BOS District 2 □ BOS District 3 □ BOS District 4 □ BOS District 5

□ All BOS □ BCC Contact Person Name _____

Diane Ontko – CPAC Application Statement

I am requesting reappointment to CPAC so that I may continue to work with all stakeholders ensuring that future development and growth are carefully considered according to set government and community guidelines and will not negatively impact existing infrastructure and neighbors.

Diane Ontko

Volunteer Experience

Coto de Caza Planning Advisory Committee
Committee Member – County Appointee — 2017-present

California Master Gardner
Great Park Garden Coalition
University of California Cooperative Extension Program — 2017-present

Age Well Senior Services Volunteer
Rancho Santa Margarita — 2015-present

Ranchos Colinas Homeowners Association, Coto de Caza, CA
Board of Directors, Vice-President — 2013-present
CZ Master Delegate

Coto Neighbors
Community Interest/Volunteer Group — 2012-present
Group Founder, Web-Site Founder, 2012

Tesoro High School, Las Flores, CA
Instrumental Music Parent Booster Organization
Executive Board — 2013-2012

The Lakes Homeowners Association, Windermere, FL
Board of Directors — 2011-2007

Olympia High School, Orlando, Florida
Parent Teacher Association Executive Board — 2011-2008
Guidance Department Volunteer

Windermere Preparatory School, Windermere, Florida
Parent Teacher Association Executive Board — 2009-2007

Thornebrooke Elementary School, Ocoee, Florida
Parent Teacher Association Executive Board — 2007-2003
School Advisor Council, President — 2006-2005
Volunteer of the Year Award — 2006-2004

Professional Experience

National Wildlife Federation, Vienna, VA
Manager, Purchasing Division — 1995-1990

Bueno Handbags, Atlanta, GA
Southwest Regional Sales Manager — 1990-1988

National Wildlife Federation, Vienna, VA
Buyer, General Commodities — 1988-1987

May Department Stores, Washington, DC
Buyer, Department Manager — 1987-1983

Community Activities

Election Poll Worker Volunteer; Master Gardner Community Service Activities; Children's Water Education Festival, Disney Volunteer; UC, Irvine Research Associates

Education

Drexel University, Philadelphia, PA
Bachelor of Arts — 1983

S37K

MEMORANDUM

To: Clerk of the Board

From: Donald P. Wagner

Date: December 9, 2020

RE: Appointments to the Foothill Trabuco Specific Plan Review Board

I would like to appoint the following to the Foothill Trabuco Specific Plan Review Board at the December 15, 2020 Board of Supervisors meeting:

- Reappoint Dale Weber for a term of 7/1/20 – 6/30/22
- Reappoint John Reed for a term of 7/1/19 - 6/30/21
- Appoint Rich Gomez to replace Adam Smith for a term 7/1/20 – 6/30/22
- Appoint Michael McClanahan to replace Mark Anderson for a term of 7/1/20 – 6/30/22

RECEIVED
2020 DEC 10 PM 1:02
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

APPLICATION FOR COUNTY OF ORANGE
BOARD, COMMISSION OR COMMITTEE

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

(FOR COUNTY USE ONLY)

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):

Foothill/ Trabuco Specific Plan Review Board

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: ☐ First ☐ Second ■ Third ☐ Fourth ☐ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

Dale (First Name) Alan (Middle Name) Weber (Last Name)

Trabuco Canyon (City) Ca (State) 92679 (Zip Code)

Home Phone Number

Cell Phone Number

CURRENT EMPLOYER: Directed Photonics, Inc.

OCCUPATION/JOB TITLE: Owner

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: ■ YES ☐ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER? ■ YES ☐ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN:

Dale A. Weber

Strengths

A hands on problem solver with over twenty years of progressively responsible experience in high-tech manufacturing, design, and development environments.

- Development and implementation of high-tech manufacturing cells and processes, including molding, stamping, high-speed assembly, optics, vacuum processing, laser assembly, and machining.
- Qualified in many major CAD/CAM packages and PC based software products
- Broad knowledge of Computer Numerically Controlled (CNC) machining equipment.
- Technical interface with sales, marketing and clients.
- Constantly mindful of budget and schedule.
- Cost savings programs for manufacturing.
- Issued four patents, 1 pending.

A seasoned professional and dedicated team player that competently and consistently completes assignments with a high level of excellence. Works effectively in development, manufacturing and sales support environments in both leadership and contributory roles.

Professional Experience

Owner/ Partner, Vice President, Engineering & Operations
Directed Photonics, Inc.
Irvine California. 2008- Present

- Created a small business to fill a substantial market void in the high speed coding and marking sector using our newly designed laser marking engine.
- Designed and developed state of the art laser coding systems that use 7 lasers to produce man readable characters on packaging at rate in excess of 1200 packages per minute. The marking systems are IP65 rated (dust and waterproof), and have no consumables. All repairs and maintenance for this equipment was designed to be performed by the end user without any special knowledge.
- Managed design engineering, manufacturing, and quality, aspects of the business.
- Designed and implemented phased growth and facility infrastructure.
- Developed an after- market repair center for competitor's equipment saving customers 70% on their repair costs.
- Re-engineered gas design for competitor lasers that boosted performance by 18%.
- Developed an industry leading 8 day turn around on most laser repairs.

Engineering Manager
Domino Lasers, Inc
Anaheim, California. 2005-2007

- Managed a team of 15 design engineers, manufacturing engineers, and engineering technicians supporting the laser division of the world's largest coding and marking solutions company. Developed and managed to aggressive budgets and timescales. Proposed and managed yearly departmental budget of $900K and capital equipment projects to $500K in scope.
- Drove large improvement projects between three engineering centers across the world that resulted in 71% reduction in customer complaints and warranty returns in the first 3 months.
- Created cross-functional engineering staff that doubled shipments and improved first pass yields from 10% to 90% in 8 months. Reinstated profitability of division in 19 months.
- Developed performance improvements to existing products that resulted in 25 percent power and 30 percent speed increases while reducing overall product cost by 22 percent.

(Continued)

- Participated in an engineering team that developed, patented, and manufactured a state-of-the-art hot food vending machine. Developed microwave and impinged air technology to cook food, refrigeration and insulation systems to store frozen food, and electro-mechanical, pneumatic, and electronic processing systems for material handling.
- Created working prototype units concurrently with design evaluation. Contributed as a member of the product development team to debug design and ensure the documentation of design changes
- Managed Underwrites Laboratories (UL) test program. Designed, procured, and supervised construction of test lab and large environmental chamber. Evaluated and redesigned vending machine product to facilitate conformance to UL standards. Maintained ongoing manufacturing compliance to UL standards.
- Assured manufacturing compliance with FDA, FCC, and NAMA standards and regulations. Monitored and maintained microwave emissions per FDA standard 21CFR for microwave appliances.
- Reduce manufacturing labor cost through process and improvements and component costs through value engineering. Initiated cost reduction programs with suppliers.
- Developed production floor layout for new product line.
- Designed and implemented tooling that reduced manufacturing labor costs.
- Created and maintained 600+ item master bill of material.
- Created and maintained process planning, manufacturing procedures, and inspection/ test procedures.
- Maintained configuration control for engineering, manufacturing, and quality control documents.
- Supported suppliers providing critical manufacturing processes. Minimized inventory and assure JIT delivery of components and final product while maximizing profitability.
- Interfaced with marketing and clients to improve product design. Participated in industry trade shows as engineering representative, and was appointed to NAMA health standards committee.
- Awarded patent for machine design.

Senior Process Engineer/ Team Leader
Printronics Inc., Irvine California. 1992

- Led and participated in a team that designed and implemented leading edge manufacturing cells to produce high precision components for Printronix newest printer series.
- Developed cost savings programs that reduced component costs by 80%.
- Evaluated new capital equipment and presented cost reduction plans to corporate management. Purchased, qualified and supervised implementation of new equipment.
- Introduced JIT supplier management techniques to significantly reduce inventory-carrying costs.
- Provided productivity and quality improvements through the use of Statistical Process Control (SPC).
- Developed and refined manufacturing and inspection methods as manufacturing processes evolved.
- Maintained process controls to insure ISO 9000 requirements were met for all manufacturing processes.
- Improved and maintained critical processes requiring extremely tight tolerances

Application Manager/ Sr. Application Engineer, Western Region
Charmilles Technologies Corperation, Irvine California. 1983 through 1991

- Managed western region application engineering department for the world's largest Electrical Discharge Machine (EDM) manufacturer. Responsible for technical presentations, technological development, and training related to wire EDM, die sinking EDM, and various CAD/CAM products in the western region.
- Provided product management for the introduction of a new series of EDM equipment into the United States.
- Developed new manufacturing techniques for mold and die making industry
- Designed and implemented turnkey manufacturing processes involving EDM and other machinery.
- Contributed application engineering support for Charmilles' participation in national trade shows.
- Developed cost savings programs and equipment justifications for clients.
- Provided extensive customer support both on-site and over the phone.
- Supported the sales force with training, technical presentations and seminars, as well as field engineering sales support.

Education

BA Physics and Computer Science.
Saint Olaf College, Northfield, Minnesota, 1983.

APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

(FOR COUNTY USE ONLY)

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):

FOOTHILL TRABUCO SPECIFIC PLAN REVIEW BOARD

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: ☐ First ☐ Second ☒ Third ☐ Fourth ☐ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

JOHN WARD REED, JR
First Name Middle Name Last Name

Street Address City TRABUCO CANYON State CA Zip Code 92679

Home Phone Number

Cell Phone Number

Email Address

CURRENT EMPLOYER: RETIRED USMC

OCCUPATION/JOB TITLE:

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER:

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: ☒ YES ☐ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER? ☒ YES ☐ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN:

JOHN W. REED, JR (COL USMC Ret)

Education:

-Masters of Arts: Computer Data Management, Webster University, St Louis Mo 63119

-Bachelor of Science: Civil Engineering, Cornell University, Ithaca, New York 14853

-High School :Forrest Sherman High School, Naples Italy

-Military Schools: The Basic School, Naval Flight School, Post Graduate School Monterey California, Airborne School, Military Procurement School, Amphibious Warfare School, Command and Staff College.

Professional:

-Commanding Officer MWSS 373: MCAA Support Squadron of the year, Mike Yunk Award, Third MAW Squadron of the Year.

-Acquisition Management: Project Manger for the CH-46, CH-53, AH-1w and UN-1N Flight Simulators. To include all phases of flight simulator design, procurement, fielding and upgrading. Projects under acquisition exceeded $50 million.

-Flight Instructor HMT 301: CH-53 and CH-46 helicopter training squadron. Flight instructor, ground school instructor, and instrument flight instructor.

-Plans Officer Third MAW: In charge of writing and updating all Third MAW Top Secret Strategic Deployment Plans.

-College Instructor, Vincennes University: Taught Math and Science.

-General Contractor: Licensed General Contractor. Home building, remodeling, road construction, drainage and water systems.

-Combat Operations: Operations Eagle Pull, Frequent Winds, Desert Shield, and Desert Storm.

Additional Information:

-Volunteer Math Tutor: High school and college math, algebra and geometry.

-Financial counselor: Counseling in debt management and asset management.

Buttress, Pat

From: Jake Reec
Sent: Monday, November 23, 2020 9:33 AM
To: Buttress, Pat
Subject: Re: Foothill/Trabuco Specific Plan Review Board
Attachments: Resume.docx; AppFTSP.pdf

Patt,
I is great to hear from you.
We had a FTSP Review Board meeting last Thursday. I tried to keep board members on point. One member said that the Orange County Fire Department did a reveiw wrong. I pointed out we were not here to question the OCFD, look at the FTSP and you will see that we do not review OCFD documents, I told him it was a little arrogant of him to think he was an expert over the OCFD. Every time one of the members feels he can question an applicant in an area that we are not suppose to look at I remind them that that area is not under our domain. Adan Smith is the main culpert. However Adam is the secretary and makes great after action reports.
The attachment is my Application. If they meed another copy of my resume I will send on.

Semper Fi,

Jake

On Monday, November 16, 2020, 12:28:26 PM PST, Buttress, Pat <pat.buttress@ocgov.com> wrote:

Dear Jake:

Upon reviewing the Third District appointees we noticed that four of the positions on the Foothill/Trabuco Specific Plan Review Board have expired. We are requesting that anyone who would like to be appointed to this Board please fill out the application for Supervisor Wagner to review and make selections.

Here is a link to the application https://cob.ocgov.com/sites/cob/files/2020-08/BCC_application.pdf which also requires a current resume. Please forward the information to Pat Buttress pat.buttress@ocgov.com.

Supervisor Wagner is looking forward to the opportunity to review the application and thank you in advance for your participation.

Best,

Pat

APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

(FOR COUNTY USE ONLY)

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):

Foothill/Trabuco Specific Plan Review Board

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: ☐ First ☐ Second ■ Third ☐ Fourth ☐ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

First Name	Middle Name	Last Name
Richard	T	Gomez

Street Address	City	State	Zip Code
	Trabuco Canyon	CA	92678

Home Phone Number

Cell Phone Number

Email Address

CURRENT EMPLOYER: Spaceez, Inc.

OCCUPATION/JOB TITLE: Chief Operating Officer

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER:

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: ■ YES ☐ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER? ■ YES ☐ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN: Orange

Richard T. Gomez

PROJECT & OPERATIONS MANAGEMENT

A record of performance and experience in facility management, operations, project management and construction. Proven ability to improve production/development/operational performance with facility focus. Solid experience and expert-level knowledge of large-scale building projects and on-time, on-budget completion. Led development of key construction systems (HVAC, mechanical and electrical) to support production and operational performance. Key strengths include building top-tier teams, delivering improved quality assurance results, and an ability to communicate effectively across all levels of an organization.

HIGHLIGHTS

- Project management, design, construction renovation for over 20 economy hotels/motels across the U.S.
- Project management for construction of new Pacific Life corporate office, Omaha, NE (100,000 square-feet)
- On-going construction/facility management for 20-clients annually; **$14M budget**
- Design, build and construction management for Bowtie, Inc.'s 40,000 square-foot office and studio
- Construction/Project management for Walt Disney Imagineering Florida project (EPCOT – AT&T pavilion)
- Design and build offices and studios for PolyGram Records, New Media 60,000 square-foot facility
- Design, build and construction management for Turner Broadcasting, Color Systems' 40,000 square-foot offices, control room and 26-suite editing facility
- Design and project management of audio/video systems and satellite construction for American Medical International (now Hoag) hospital facilities including integration to area universities

EXPERIENCE

SPACEEZ, INC., Irvine, CA
Chief Operating Officer 2018-present

Leadership:

- Develop business model and team to renovate economy hotels and motels and convert them to boutique experiences.
- Develop automation systems for scalability and deploy to field project managers and construction teams.
- Founding member of organization; equity position.
- Responsible for all financial reports and expenditures.

Key Accomplishments:

- Project Management:
  - Created and delivered project management model for all design, engineering and construction teams.
  - Developed proprietary "Planning & Design Service" package to guide property owners through key decision-making obstacles:
    - Scope
    - Budget
    - Project Plan (Timeline)
    - Design Mood Boards

- Strategic changes resulted in acceleration of AT&T's overall business marketing capability and consumer knowledge by applying compelling design and construction to telecommunications showcase innovation.

Key Accomplishments:

- Developed project design and construction budgets **($3.7M)**; performance based reports and metrics
- Created team and worked with team coordinators to assure proper communications to the field
- Translated show concept vision to construction plans for working display of technology

PolyGram RECORDS – *NEW MEDIA DIVISION,* Los Angeles, CA
Technical Operations/Facility Manager.....1987 - 1991

Leadership:

- Design, build and manage interactive media studio; image capture, audio/video recording.
- Construction management to support studio requirements.
- Worked with contractors and vendors to build out office and production facility.

Key Accomplishments:

- Proposed and completed facility security systems
- Created facility infrastructure to support remote delivery of media assets to studios across the U.S.
- Integration with international corporate requirements and compliance.

TURNER BROADCASTING – *COLOR SYTEMS DIVISION,* Los Angeles, CA
Technical Operations/Facility Manager.....1987 - 1991

Leadership:

- Design, build and manage 26-suite edit studio and control room.
- Construction management to support build-to-suit requirements.
- Negotiated contracts and managed contractors and vendors to build out office and production facility.

Key Accomplishments:

- Detailed cabling and infrastructure facility support for production requirements
- Seamlessly able to integrate data across entire facility
- Integration with host studio via microwave and Ku-band satellite communications

WALT DISNEY IMAGINEERING, Glendale, CA
Technical Operations Supervisor/AudioVideo Studios.....1984 - 1987

EDUCATION

- **Master of Business Administration,** Technology Management, **4.0 GPA**
- **Bachelor of Arts,** Economics..... UCLA

PROFESSIONAL DEVELOPMENT & EXPERTISE

Purpose driven leadership
Lean Manufacturing
Six Sigma principles
Team development and communication
Microsoft Excel (and all Office applications)
Microsoft Project (PMP candidate)
Workflow review and optimization
Risk assessment and analysis
Revenue acceleration
Adobe Creative Suite; all tools
Digital Asset Management systems
Disney University
Sony Broadcast, Data General, Ampex and 3M certificates

PERSONAL INTERESTS

Land-use planning and open-space stewardship.....http://saddlebackcanyons.org
Skiing, photography, horsemanship, and fly-fishing.....http://saddlebackcanyonriders.com

APPLICATION FOR COUNTY OF ORANGE BOARD, COMMISSION OR COMMITTEE

(FOR COUNTY USE ONLY)

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor's Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BCC/CONTACT):
Foothill/Trabuco Specific Plan Review Board.

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: ☐ First ☐ Second ■ Third ☐ Fourth ☐ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:

First Name	Middle Name	Last Name
Michael	Eugene	McClanahan

Street Address	City	State	Zip Code
	Trabuco Canyon	Ca	92678

Home Phone Number _____ Cell Phone Number _____

Email Address _____

CURRENT EMPLOYER: Los Angeles County Fire Department (Retired) Lacera member.

OCCUPATION/JOB TITLE: Fire Captain, Hazmat Captain, Battalion Training officer.(retired)

BUSINESS ADDRESS: _____

BUSINESS PHONE NUMBE _____

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES: ■ YES ☐ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP: _____

ARE YOU A REGISTERED VOTER? ■ YES ☐ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN: Orange County, California

LIST ALL CURRENT PROFESSIONAL OR COMMUNITY ORGANIZATIONS AND SOCIETIES OF WHICH YOU ARE A MEMBER.

ORGANIZATION/SOCIETY	FROM (MO./YR.)	TO (MO./YR.)
Scouts BSA,(Former Boy Scouts of America)	aprox. 1998	apox. 2010
Emergency preparedness coordinator, for the church of Jesus Christ Latter Day Saints.	aprox. 1995	aprox. 2000
Second councilor in the Bishop rec member for the church of Jesus Christ of Latter Day Saints.	9/2019	Present

WITHIN THE LAST FIVE YEARS, HAVE YOU BEEN AFFILIATED WITH ANY BUSINESS OR NONPROFIT AGENCY(IES)? ☐YES ■ NO

DO YOU OWN REAL OR PERSONAL PROPERTY OR HAVE FINANCIAL HOLDING WHICH MIGHT PRESENT A POTENTIAL CONFLICT OF INTEREST? ☐YES ■ NO

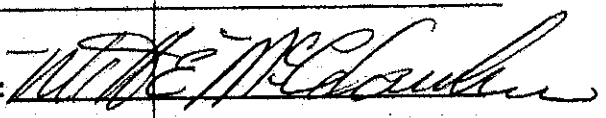
HAVE YOU BEEN CONVICTED OF A FELONY OR MISDEMEANOR CRIME SINCE YOUR 18TH BIRTHDAY? YOU ARE NOT REQUIRED TO DISCLOSE ANY OF THE FOLLOWING: ARRESTS OR DETENTIONS THAT DID NOT RESULT IN A CONVICTION; CONVICTIONS THAT HAVE BEEN JUDICIALLY DISMISSED, EXPUNGED OR ORDERED SEALED; INFORMATION CONCERNING REFERRAL TO AND PARTICIPATION IN ANY PRETRIAL OR POSTRIAL DIVERSION PROGRAM; AND CERTAIN DRUG RELATED CONVICTIONS THAT ARE OLDER THAN TWO YEARS, AS LISTED IN CALIFORNIA LABOR CODE § 432.8 (INCLUDING VIOLATIONS OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 11357(B) AND (C), 11360(C) 11364, 11365 AND 11550 – AS THEY RELATE TO MARIJUANA)?

☐YES ■ NO

IF YES, PLEASE EXPLAIN AND ATTACH ADDITIONAL SHEETS, IF NECESSARY.

PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

See attached sheet.

DATE: 11/20/2020 **APPLICANTS SIGNATURE:** 

CLERK OF THE BOARD OF SUPERVISORS USE ONLY – DO NOT WRITE BELOW THIS LINE

Date Received: _____ Received by: _____
Deputy Clerk of the Board of Supervisors

Date referred: _____

To: ☐ BOS District 1 ☐ BOS District 2 ☐ BOS District 3 ☐ BOS District 4 ☐ BOS District 5

☐ All BOS ☐ BCC Contact Person Name _____

Mike McClanahan
letter to oc
Nov 23, 2020 at 11:54:03 AM
Mike McClanahan

Answer : To briefly explain wye I wish to serve on this board.

Im appreciative of this opportunity to be considered to serve on the Foot/Trabuco Specific Plan Review Board. I feel it would be an Honor to serve on a board that helps to maintain the serenity and the beauty of Orange county. My family and I enjoyed living in Trabuco Canyon for over thirty years, I'm proud to call this area as my home. Iv been a public servant for 40 years, As a Fire Captain for Los Angeles County Fire Department this has enabled me to be a part of safe guarding communities by Fire Prevention, Public education, and community service programs, also includes educating and enforcing the uniform building codes, as well as the California fire codes. These efforts are to be a protector of life, property and the environment, It would be also an honor to help preserve the aesthetic Sensitive beauties of the canyons. I feel it our responsibility to do all we can to preserve the serenity and beauties of Orange county, for our present and future generations. Now Retired from the Fire Service, I can concentrate my efforts in preserving and help making safe this beautiful Orange county area.

Thank you, Michael McClanahan

Michael E. McClanahan

Objective:

I Have been honored to serve the public as a firefighter in many ranks, up to and including Fire Captain for over the last thirty six years. Most of my firefighting experience is with Los Angeles County fire department, thirty three years, with additional 3 years with City of El Cajon Fire department, and 6 months with City of Buena Park Fire department.

Major Accomplishments:

I would considered my family to one of the best accomplishment three great boys and a wonderful wife, married thirty five years.

Assigned as a Fire Captain to one most active light force truck company in Los Angeles county fire department.

Assigned as a Hazmat Captain to a Hazmat squad as a certified specialist.

Assigned to foam unit at FS 10 in city of Carson LA.

Assigned to numerous fire engine companies crossed different areas of Los Angeles county.

Professional Experience:

1981 to Present

Positions held:

Lead instructor for Hazardous material first responder training for Los Angeles county fire department training twenty two battalions. 2015 to 2017

Battalion Training officer for three years in Battalion 7.

National Fire Academy Graduate in chemistry of hazardous materials.

Roof operation instructor for over 4 years to battalion 20 and 8 with power point roof operations.

Main instructor in Truck company operations for the city of La Harbra fire department during transition to Los Angeles county fire department

Education:

2016 Hazmat IQ Certificate Los Angeles ca.

2005 FEMA IS 0700

National Fire Academy Graduate in chemistry of hazardous materials.

2000 Letter of completion of Confined space los Angeles County

1995 California state fire service training and education system

Instructor 1A, and Instructor 1B

1994 University of Nevada, Reno 32 hour course in oil refinery school

continue.....

32 hour course of oil refinery firefighting.

1993 **Dodd / Beals** **Reno, NV**
Certificate Oil Refinery systems

Arco Company Strategy & Tactics 32 hour course

1989 **La County Fire Department** **Los Angeles, CA**
Certify Chemical Identification

Hazcat Chemical Identification

1987 **County of Los Angeles** **Los Angeles, CA**
Hazardous Materials Responders Hazardous Materials Responders

Certified

1986 **Loa Angeles County Fire Department** **Los Angeles, CA**
CERTIFY Basic training course for FireFighter

Successfully completing the prescribed basic training course for firefighter at the Cecil R. Gehr fire combat training center given at Los Angeles.

1982 **Rio Hondo college** **Whitter, CA**
Assocated Science Fire Science

1982 **Rio Hondo** **whitter, CA**
Accocated Arts General education

Deans list 3.9 GPA awarded in 1982

1981 **Rio Hondo college** **Whitter, CA**
Basic Fire Academy

County Executive Office

S37L

Memorandum

2020 DEC 10 PM 2:36
CLERK OF THE BOARD
BOARD OF SUPERVISORS

December 10, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.10 11:34:27 -08'00'

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: OC Public Works
Subject: Appoint Orange County Flood Control District Engineer
Districts: All Districts

Reason for supplemental: The County Executive Office is requesting this Supplemental item be placed on the December 15, 2020, Board agenda in order to fill the Engineer position that is critical to County operations in the effective administration of flood control projects. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: _____

Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item S 37L
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE:	12/15/2020
LEGAL ENTITY TAKING ACTION:	Board of Supervisors and Orange County Flood Control District
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	OC Public Works
DEPARTMENT HEAD REVIEW:	*Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	James Treadaway (714) 667-9700 Ron Vienna (714) 667-9701

2020 DEC 10 PM 2:36

SUBJECT: Appoint Orange County Flood Control District Engineer

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2020.12.10 11:33:55 -08'00'	Resolution approved to form	Discussion
CEO Signature	*Action* / *County Counsel Signature*	3 Votes Board Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: N/A **# of Positions:** **Sole Source:** N/A

Current Fiscal Year Revenue: N/A

Funding Source: See Financial Impact Section **County Audit in last 3 years** No

Prior Board Action: 8/25/2015 #25

RECOMMENDED ACTION(S)

1. Retroactively rescind Resolution No. 15-090 appointing Khalid Bazmi as the Engineer for the Orange County Flood Control District, effective at the close of business on December 4, 2020.

2. Adopt a Resolution appointing the Director of OC Public Works or designee as the Engineer for the Orange County Flood Control District.

SUMMARY:

Appointing the Director of OC Public Works or designee as the Engineer for the Orange County Flood Control District will fulfill the requirements set forth in the Orange County Flood Control Act and allow for effective administration of flood projects.

BACKGROUND INFORMATION:

The Orange County Flood Control Act (Act) requires the Board of Supervisors (Board) to appoint an engineer for the Orange County Flood Control District (District). The Act only requires that the Board "employ by resolution a competent engineer." Historically, the specific engineer appointed by the Board to the District has also performed the duties for the County of Orange (County) in a position titled Chief Engineer.

The Act requires that an engineer be hired to fulfill the purpose of the Act. The Director of OC Public Works will either fulfill this role or will delegate the responsibility to a qualified competent engineer, as outlined below.

The previous Engineer of the District was appointed on August 25, 2015. Upon the incumbent's retirement on December 4, 2020, the position became vacant and the duties and responsibilities have been maintained by the Director of OC Public Works as well as assigned staff through appropriate delegations.

If the Board approves the Recommended Actions, the Director of OC Public Works will delegate the responsibilities of Engineer to Mr. Kevin Onuma. Mr. Onuma currently serves as a Deputy Director of OC Public Works overseeing the OC Operations & Maintenance Service Area and OC Facilities Maintenance & Central Utilities Facility (CUF) Service Area.

In addition to a Bachelor of Science Degree in Engineering and a Professional Engineer Certification, Mr. Onuma has over 30 years of relevant engineering experience as he has performed work in 12 different roles with OC Public Works since 1989. He began his career with OC Public Works as an Engineering Technician in the Transportation Function/Transportation Program Division. He then held a number of positions of progressively higher responsibility in the Transportation Function/Transportation Program Division, Program Development Division/Flood Control Programs and in the Flood Control Design Division. In July 1999, Mr. Onuma was promoted to Senior Civil Engineer for the Program Development Division/Hydrology Section where he served for two years before transferring to the Program Development Division/Development Support Section where he served for four years.

Mr. Onuma served as Manager for the Flood Control Division/Flood Program beginning in August 2005 and then as Manager for the Flood Control Division from February 2008 through March 2014 when he became the Deputy Director of OC Infrastructure Programs. During May 2014 through August 2015, Mr. Onuma also served as the interim County Engineer. He has been the Deputy Director of OC Operations & Maintenance Service Area since September 15, 2015, and is also currently overseeing the OC Facilities Maintenance & CUF Service Area.

As Deputy Director of OC Operations & Maintenance, Mr. Onuma's team prepared OC Public Works' first multi-year maintenance plan to ensure proper prioritization, scheduling, budgeting, workload management and coordination of major maintenance activities and projects.

Acting as the Engineer, Mr. Onuma will act as a Chief Deputy Director of OC Public Works and will oversee five Service Areas, including OC Infrastructure Programs, OC Construction, OC Operations & Maintenance, OC Development Services and OC Environmental Resources.

FINANCIAL IMPACT:

The position will be funded by Budget Control 080, OC Public Works; Fund 115, OC Road; Fund 400, OC Flood; and Fund 034, OC Watershed.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Orange County Flood Control Act
Attachment B - Kevin Onuma Resume
Attachment C - Resolution
Attachment D - Resolution No. 15-090

"The peace, health and safety of the citizens of various cities in the southern part of this State are dependent upon the obtaining of an adequate supply of water for municipal and domestic use therein, from the Colorado river, by means of an aqueduct, diversion works and other facilities of such magnitude as to be possible only through the medium of the metropolitan water district, organized and functioning for the purpose of bringing such water to its component cities; that there is now a metropolitan water district, comprised of thirteen cities in the southern part of this State, organized and functioning for this purpose; that at an election held therein on the 29th day of September, 1931, the issuance of bonds sufficient to enable such district to commence the construction of the necessary diversion works, aqueduct and other facilities, and the acquisition of the rights of way required therefor, was authorized; that if the provisions of this act become a law immediately, the sale by such metropolitan water district of its bonds so authorized, will be furthered, and such district thereby will be enabled to obtain without delay the necessary funds for the construction of such diversion works, aqueduct and other facilities and the acquisition of the rights of way therefor and the doing of the other things immediately required of such district in order to function properly for the immediate preservation of the peace, health and safety of the citizens of the component cities of such district."

CHAPTER 36

ORANGE COUNTY FLOOD CONTROL ACT

Section

36–1. Creation; boundaries.
36–2. Objects and purposes; powers.
36–2.1. Reimbursement for funds previously expended; reduction of bonded indebtedness.
36–2.2. Increase, improvement and conservation of water; importation and purchase; sale for beneficial purposes.
36–2.3. Recreational use of district property.
36–2.4. Additional powers.
36–2.5. Regulations; adoption; abatement of violations as public nuisance; assessment of costs; liens.
36–2.6. Oil and gas leases; authorization; invitation, award and rejection of bids.
36–2.7. Repealed.
36–2.8. Applicability of Improvement Act of 1911, Street Opening Act of 1903, Municipal Improvement Act of 1913, Improvement Bond Act of 1915; additional powers.
36–2.9. Definitions.
36–2.10. Appointment of officer to perform additional duties.
36–2.11. Engineer of work; appointment; duties; compensation.
36–2.12. Engineer of work; direction of work; submission of assessment.
36–2.13. Repealed.
36–2.14. Certified copy of assessment and diagram; recordation in county surveyor's office.
36–2.15. Proceedings under Special Assessment Investigation Limitation and Majority Protest Act of 1931; necessity; waiver.
36–3. Supervisors; officers; employees; ordinances, resolutions and legislative acts.
36–3.1. Claims for money or damages; law governing.
36–3.2. Violation of ordinances or regulations; misdemeanor; fine and imprisonment; injunction by civil suit.
36–4. Engineers; employment; investigation of plans; report; removal.
36–5. Engineer's report; adoption.
36–6. Bond election.
36–7. Bonds; form.
36–8. Bonds; issue and sale; payments.

Section
36–9. Bonds; lien.
36–10. Bond tax.
36–11. Bond tax; law applicable.
36–12. Bonds; legal investment.
36–13. Bonds; force, value and use.
36–13½. Acceptance of improvements or drainage systems; assumption of indebtedness; maintenance; special tax.
36–14. Taxation; maximum levy; zones of benefit.
36–15 to 36–15.1. Repealed.
36–16. Administrative rules; works; acquisition of property; condemnation.
36–16.1. Repealed.
36–17. Cooperation.
36–17a. Right of way over public lands.
36–18. Additional bonds.
36–18.5. Expenditure for purpose bonds voted unwise; special election to use money for other purposes.
36–19. Bond election; adverse vote; time for new election.
36–19.5. Bonds; retirement; rejection of offers to sell to district; payment of Installments of principal or interest.
36–19.6. Bond issues; reports.
36–19.7. Flood protection improvements; assessments of property specially benefitted.
36–19.8. Hearings; notice.
36–19.9. Assessments; protests.
36–19.10. Engineer's reports; zone of benefit boundaries.
36–19.11. Zones of benefit; protests; elections.
36–19.12. Election dates; precincts; officers.
36–19.13. Abandonment of proceedings; failure to receive approval.
36–19.14. Engineer's report; confirmation; zone of benefit boundaries.
36–19.15. Bond issues; competitive bids; negotiated sales.
36–19.16. Special benefits from improvements; assessment.
36–19.17. Reserve fund.
36–19.18. Alternative authorization for improvements.
36–19.19. Validity of proceedings; contests; appeals.
36–19.20. Validity of bonds; procedure.
36–19.21. Establishment of area of benefit; recordation; notice.
36–19.22. Special Assessment Investigation, Limitation and Majority Protest Act; inapplicability.
36–20. Repeals or amendments; effect upon obligations.
36–21. Liberal construction.
36–22. Partial invalidity.
36–23. Title of act.

An Act to create a flood control district to be called "Orange county flood control district"; to provide for the control and conservation of flood and storm waters, and for the protection of harbors, waterways, public highways and property in said district from damage from such waters, and for the construction of works and the acquisition of property therefor; to authorize the incurring of indebtedness, and the voting, issuing and selling of bonds, and the levying and collecting of taxes by said district; to provide for the government and control of said district, and to define the powers and duties of the officers thereof. (Stats.1927, c. 723, p. 1325.)

Cross References

Procedure for letting contracts, see Public Contract Code § 21020 et seq.
Replenishment districts in Orange County, see Water Code § 60047.

§ 36–1. Creation; boundaries

Section 1. A flood control district is hereby created, to be called "Orange county flood control district" and the boundaries and territory of said district shall be as follows: All that portion of the county of Orange, lying within the exterior boundaries thereof.

(Stats.1927, c. 723, p. 1325, § 1.)

Law Review and Journal Commentaries

Evolution of forms of water users' organizations in California. Albert T. Henley, 45 Cal. L. Rev. 665 (1957).

Inverse condemnation liability for unintended physical damage: Privileged entry upon private property. Arvo Van Alstyne, 20 Hastings L.J. 483 (1969).

Library References

Water Law ⇔2861, 2863.
Westlaw Topic No. 405.

§ 36–2. Objects and purposes; powers

Sec. 2. (a) The purposes of this act are to provide for the control of the flood and storm waters of the district, and the flood and storm waters of streams that have their source outside of the district, but which flow into the district, and to conserve those waters for beneficial and useful purposes by spreading, storing, retaining, and causing them to percolate into the soil within the district, or outside the district, or to save or conserve in any manner all or any of those waters and protect from damage from those flood or storm waters, the harbors, waterways, public highways, and property in the district.

(b) The Orange County Flood Control District is hereby declared to be a body corporate and politic and has all of the following powers:

(1) To have perpetual succession.

(2) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(3) To adopt a seal and alter it at pleasure.

(4) To take by grant, purchase, gift, devise, or lease, and to hold, use, enjoy, and to sell, lease, exchange, or dispose of real or personal property of every kind, within or outside the district, necessary to the full exercise of its powers.

(5) To acquire, or contract to acquire, lands, rights-of-way, easements, privileges and property of every kind, and to construct, maintain, and operate any and all works or improvements within or outside the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as authorized in this act.

(6) To exercise the right of eminent domain, either within or outside the district, to take any property necessary to carry out any of the objects or purposes of this act.

(7) To incur indebtedness, and to issue bonds in the manner provided in this act.

(8) To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district in the manner provided in this act.

(9) To make contracts, and to employ labor, and to do all acts necessary for the full exercise of the powers of the district, or any of the officers thereof, by this act.

(10) To grant or otherwise convey to counties, cities and counties, cities, or towns, easements for street and highway purposes, over, along, in, through, across, or under any real property owned by the district.

(11) To remove, carry away, and dispose of any rubbish, trash, debris, or other inconvenient matter that may be dislodged, transported, conveyed, or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of the district or elsewhere.

(12) To sell or dispose of any property, or any interest therein, or lease or rent any property, or any interest therein, whenever, in the judgment of the board of supervisors, the property, or any interest therein or part thereof, is not required for the purposes of the district, or property may be leased, or included in community leases embracing adjoining lands, for any purpose, including leases for mining or extracting oil, gas, hydrocarbon substances, or other minerals, without interfering with the use of the property for the purposes of the district. If it appears that wells drilled upon private lands are draining or may drain oil, gas, or other hydrocarbon substances from lands owned by the district and operations for the production of oil, gas, or other hydrocarbons on land owned by the district might interfere with the use of that land for the purposes of the district, the district may enter into agreements with the owners or operators of the wells for the payment of compensation to the district for drainage in lieu of drilling offset wells upon the land owned by the district, and to pay any compensation received into the general fund of the district and use the compensation for the purposes of this act. However, nothing in this section authorizes the board of supervisors, or other governing body of the district, or any officer thereof, to sell, lease, or otherwise dispose of any water, water right, reservoir space, or storage capacity, or any interest or space therein, except as provided by Section 17. The district may also grant to the United States of America, or any agency thereof authorized to accept and pay for land which lies within any channel, dam, or reservoir site, improved or constructed, in whole or in part, with federal funds, upon the payment to the district of the actual cost thereof as determined by the board of supervisors of the district. The district, by and through its board of supervisors, may warrant and guarantee the title of all lands so transferred to the United States under this section.

(13) Pursuant to paragraph (12), to lease or rent any property, or any interes therein or part thereof, if the board adopts a resolution that meets all of the following requirements, as applicable:

(A) Includes all of the following findings, based on evidence set forth in the minutes of the meeting:

(i) The property, or any interest therein or part thereof, is no longer or not yet needed for district uses and purposes, including, but not limited to, flood protection and water conservation, and the lease or rental use will not conflict with the uses and purposes of the district.

(ii) The lease or rental is consistent with the city or county general plan, specific plan, or other plans or policies adopted for the area within which the property is located, including any plans and regulations adopted pursuant to Chapter 4 (commencing with Section 8400) of Part 2 of Division 5 of the Water Code.

(iii) The lease or rental is consistent with city or county zoning ordinances, regulations, and policies adopted for the area within which the property is located.

(iv) The lease or rental is consistent with the city or county building regulations and policies adopted for the area within which the property is located.

(B) In the case of a rental, specifies the rental period and the approximate date on which the property will be needed for the uses and purposes of the district.

(C) For any property acquired by the district through eminent domain, declares that the property was acquired through eminent domain in accordance with Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

(14) To monitor, test, or inspect drainage, flood, storm, or other waters within the district for the purpose of recording, determining, and reporting the quality of the waters to appropriate regional water quality control boards.

(15) To assist the County of Orange and any city within the county in emergency operations to control or mitigate the effect of tides, waves, and ocean currents on the Orange County shoreline.

(16) To carry on technical and other investigations, examinations, or tests of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, control of floods, use of water, water quality, nuisance, pollution, waste, and contamination of water, both within and outside the district.

(17) To regulate, prohibit, or control the discharge of pollutants, waste, or any other material into the district's facilities by requiring dischargers to obtain a permit from the district prior to any discharge and by prohibiting the discharge of pollutants or other material which does or may cause a nuisance into the district's facilities without first obtaining a permit from the district, but, if a federal permit has been issued for the discharge, a permit may be issued by the district at no fee to the discharger; except as provided in this act, to require a fee to be collected prior to the issuance of a discharge permit, if the

amount of the fee does not exceed the cost of issuing the permit; to require all permitholders to indemnify the district from any and all damages, penalties, or other expenses imposed on or required of the district by state or federal agencies due to any discharge by the permitholders into the district facilities.

(18) To establish compliance with any federal, state, or local law, order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material into the district's facilities. For this purpose, any authorized representative of the district, upon presentation of his or her credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, has the right of entry to any premises on which a water pollution, waste, or contamination source is located for the purpose of inspecting the source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.

(Stats.1927, c. 723, p. 1325, § 2. Amended by Stats.1939, c. 589, p. 1994, § 1; Stats.1957, c. 1036, p. 2269, § 2; Stats.1968, c. 522, p. 1167, § 1; Stats.1969, c. 316, p. 687, § 1; Stats.1975, c. 1276, p. 3483, § 13; Stats.1976, c. 932, p. 2131, § 1; Stats. 1986, c. 987, § 1; Stats.1992, c. 155 (A.B.3813), § 1; Stats.1993, c. 281 (A.B.954), § 1.)

Law Revision Commission Comments

1975 Amendment

The deleted portions of Section 2 [Water Code Appendix § 36–2] are superseded by provisions of the Eminent Domain Law. See Code Civ. Proc. §§ 1230.020 (uniform procedure), 1240.610 et seq. (more necessary public use).

Historical and Statutory Notes

Stats.1968, c. 522, p. 1167, § 1, contained no section numbered 2.

Operative effect of 1975 amendment, see Historical and Statutory Notes under Water Code Appendix § 37–2.

Cross References

Eminent domain, see Const. Art. 1, § 19; Civil Code § 1001; Code of Civil Procedure §§ 1230.010 et seq., 1240.010 et seq.

Levy and collection of taxes, generally, see Revenue and Taxation Code §§ 2151 et seq., 2501 et seq.

State policy as to use of water resources, see Water Code § 100 et seq.

Library References

Westlaw Topic No. 405.

Water Law ⇐2861, 2865(1).

Recommendations relating to condemnation law and procedure in special districts. 12 Cal.L.Rev.Comm. Reports 1101 (1974).

Sovereign immunity study. Cal.Law Revision Comm. (1963) Vol. 5, p. 25.

Notes of Decisions

Contracts 1

---

1. Contracts

A 1938 agreement between Orange county flood control district and state of California, by which district was to relocate and reconstruct state highways affected or destroyed by Prado Dam, was not binding on United States which was not a party to the agreement and had no authority to acquire or pay for the taking of easements necessary for construction of dam. U.S. v. Certain Parcels of Land in Riverside County, Cal., S.D.Cal.1946, 67 F.Supp. 780. United States ⇐ 59

§ 36–2.1. Reimbursement for funds previously expended; reduction of bonded indebtedness

Sec. 2.1. In addition to its other powers, the Orange County Flood Control District may receive and accept funds, as reimbursement for funds previously expended by the district, or otherwise, and apply such funds toward the purchase and retirement of the outstanding bonds of the district or the payment of installments of principal or interest due, or which may become due, upon the outstanding bonds of the district.

(Added by Stats.1940, 1st Ex.Sess., c. 42, p. 117, § 1.)

Historical and Statutory Notes

Stats.1940, Ex.Sess., c. 42, p. 118, § 3 provides:

"Sec. 3. The purchase and retirement of any outstanding bonds by the district prior to the effective date of this act is hereby confirmed, validated and declared legally effective, if such purchase and retirement was duly authorized by the board of supervisors of the district."

Former Notes

Former § 2.1, added by Stats.1940, 1st Ex. Sess., c. 17, § 1, relating to purchase and retirement of bonds by the Orange COunty Flood Control District, was repealed by Stats.1940, 1st Ex.Sess., c. 42, p. 118, § 5.

Library References

Water Law ⇐2902.
Westlaw Topic No. 405.

§ 36–2.2. Increase, improvement and conservation of water; importation and purchase; sale for beneficial purposes

Sec. 2.2. In addition to its other powers, the district shall have the power to increase, to improve the quality of, and to prevent the waste or diminution of the water supply in, or unlawful exportation of water from, the district; to obtain, retain, conserve, treat by physical, chemical, or biological processes, or otherwise reclaim drainage, storm, flood and other water, within or outside of the district, for beneficial use within the district or for storage, discharge, or disposal in accordance with legally established water quality specifications; and to appropriate and acquire water and water rights, and import water into the district; to purchase water within or outside of the district for beneficial use within the district and, whenever the board of supervisors shall find it to be in the best interests of the district so to do, to sell such water for agricultural, domestic or other beneficial purposes within the district upon such terms and conditions as may be prescribed by the board of supervisors.

(Added by Stats.1949, c. 912, p. 1679, § 1. Amended by Stats.1951, c. 1352, p. 3265, § 1, eff. July 9, 1951; Stats.1976, c. 932, p. 2133, § 2.)

Cross References

Useful and beneficial purposes regarding use of water construed, see Water Code § 1004.

Library References

Water Law ⇐2865(4).
Westlaw Topic No. 405.

§ 36–2.3. Recreational use of district property

Sec. 2.3. In addition to its other powers, the board of supervisors shall have the power to permit recreational uses of the flood control district's properties upon a finding by the board of supervisors that said use will not impair or diminish existing or probable future requirements for flood prevention and water conservation. If the board of supervisors permits recreational use of the district's properties pursuant to this section, the board may set charges for such use sufficient to cover the costs of the district, or the estimated costs, incurred by the district in making and maintaining such facilities available for recreational use.

(Added by Stats.1963, c. 401, p. 1206, § 1.)

§ 36–2.4. Additional powers

Sec. 2.4. In addition to its other powers, the district shall have the power to preserve and enhance its properties and, upon a finding by the board of supervisors that the acquisition is necessary for such purpose, to acquire, preserve, and enhance lands or interests in lands contiguous to its properties, for the protection and preservation of the scenic beauty and natural environment of such properties or such lands.

(Added by Stats.1970, c. 268, p. 529, § 1.)

Library References

Water Law ⇐2865(4).
Westlaw Topic No. 405.

§ 36–2.5. Regulations; adoption; abatement of violations as public nuisance; assessment of costs; liens

Sec. 2.5. In addition to its other powers, the district shall have the power, after holding a public hearing on reasonable notice thereof, to adopt and enforce regulations within the incorporated and unincorporated areas of the district to control and enhance the quality of waters, to eliminate the pollution, waste, and contamination of waters flowing into, through, from, or originating within watercourses and impoundments, both natural and artificial, within the district, to prevent contamination, nuisance, pollution, or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in the district, and to expend such amounts as are necessary to exercise such powers from the funds of the district.

Violation of any of the provisions of a district regulation adopted pursuant to this section may be abated as a public nuisance by the district, and the board of supervisors may by regulation establish a procedure for the abatement of such a nuisance and to assess the cost of such abatement to the violator. If the violator maintains the nuisance upon real property in which he has a fee title interest, the assessment shall be a charge upon such real property. The assessment shall be collected at the same time and in the same manner as ordinary district taxes are collected pursuant to Sections 10 and 11 of this act, and shall be subject to the same penalties and the same procedure for sale in

case of delinquency as provided for ordinary district taxes. All laws applicable to the levy, collection, and enforcement of county ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection. Any amounts of such assessments collected are to be credited to the funds of the district from which the costs of abatement were expended.

(Added by Stats.1976, c. 932, p. 2134, § 4.)

Historical and Statutory Notes

Former Notes

Former § 36–2.5, added by Stats.1939, c. 589, § 1.5, relating to authorization for oil and gas leases, was repealed by Stats.1976, c. 932, p. 2134, § 3. See Water Code Appendix § 36–2.6.

Library References

Water Law ⇐2865(4).
Westlaw Topic No. 405.

§ 36–2.6. Oil and gas leases; authorization; invitation, award and rejection of bids

Sec. 2.6. (a) Whenever the board of supervisors of the district determines that it is for the best interest of the district to lease any district lands for the production of oil, gas, or other hydrocarbons, the board of supervisors shall prepare a form of lease therefor and may proceed to lease the same as provided in this section.

(b) When the form of lease has been prepared by the board of supervisors of the district the board shall give notice of intention to lease such lands. The notice shall be published once a week for two successive weeks in a daily or weekly newspaper of general circulation in the county in which such lands or the greater portion thereof are situated, and shall state the time (which shall not be less than 14 days after the last date of publication of the notice) and place for receiving and opening bids, a description of the lands, either as a tract or by parcels, and that the form of lease for the purpose of bidding may be procured at the designated office of the district.

(c) At the time and place specified in the notice, the board of supervisors of the district shall publicly open the sealed bids and shall award the lease for each parcel to the highest qualified bidder, unless in the opinion of the board of supervisors of the district, the acceptance of the highest bid for any parcel or parcels is not for the best interests of the district, in which event the board may reject the bids for such parcel or parcels. Thereupon new bids may be called for and the parcel or parcels for which the bids were rejected may be leased as herein provided.

(Added by Stats.1939, c. 589, p. 1996, § 1.6. Amended by Stats.1976, c. 932, p. 2134, § 5.)

Historical and Statutory Notes

Derivation

Former § 36–2.5, added by Stats.1939, c. 589, p. 1996, § 1.5.

Former § 36–2.7, added by Stats.1939, c. 589, p. 1966, § 1.7.

Cross References

Official publication in newspapers of general circulation, see Government Code §§ 6000 et seq., 6040.

§ 36–2.7. Repealed by Stats.1976, c. 932, p. 2135, § 6

Historical and Statutory Notes

The repealed section, added by Stats.1939, c. 589, § 1.7, related to award of oil and gas leases and rejection of bids. Similar provisions were added at Water Code Appendix § 36–2.6.

§ 36–2.8. Applicability of Improvement Act of 1911, Street Opening Act of 1903, Municipal Improvement Act of 1913, Improvement Bond Act of 1915; additional powers

Sec. 2.8. The Improvement Act of 1911, the Street Opening Act of 1903, the Municipal Improvement Act of 1913, and the Improvement Bond Act of 1915 are applicable to the district. In addition to all other powers granted under this act, the district may, whenever the public interest or convenience may require, in the discretion of the board of supervisors, use those acts or any of them to acquire, construct, or complete any improvements or work authorized by this act and to levy assessments and reassessments and issue bonds to pay for the costs and expenses of such improvements or work.

(Added by Stats.1957, c. 347, p. 988, § 1. Amended by Stats.1983, c. 815, § 2.)

§ 36–2.9. Definitions

Sec. 2.9. In the application of the acts referred to in Section 2.8, the terms used in those acts shall have the following meanings.

(a) "City" means the Orange County Flood Control District.

(b) "City council" or "legislative body" means the Board of Supervisors of the Orange County Flood Control District.

(c) "Mayor" means the Chairman of the Board of Supervisors of the Orange County Flood Control District.

(d) "Clerk" means the Clerk of the Board of Supervisors of the Orange County Flood Control District.

(e) "Council chambers" means the place designated by the Board of Supervisors of the County of Orange for holding its regular meetings.

(f) "Treasurer" means the Treasurer of the County of Orange.

(g) "Auditor" means the Auditor of the County of Orange.

(h) "Tax collector" means the Tax Collector of the County of Orange.

(i) "Superintendent of streets" or "street superintendent" and "city engineer" means the Engineer of the Orange County Flood Control District, or any other person appointed to perform such duties.

(j) All words relating to municipal officers and matters refer to the corresponding officers of the Orange County Flood Control District.

(Added by Stats.1957, c. 347, p. 989, § 2.)

§ 36–2.10. Appointment of officer to perform additional duties

Sec. 2.10. The board of supervisors may appoint any competent officer of the County of Orange, other than the engineer, to serve without additional compensation as the officer to perform any or all of the duties conferred upon the street superintendent or city engineer in any act referred to in Section 2.8.

(Added by Stats.1957, c. 347, p. 989, § 3.)

Library References

Water Law ⇐2864.
Westlaw Topic No. 405.

§ 36–2.11. Engineer of work; appointment; duties; compensation

Sec. 2.11. The board of supervisors may appoint an engineer of work, other than the engineer or in place of the engineer, in which event the duties to be performed by the city engineer as set forth in any act referred to in Section 2.8 shall be performed by the engineer of work whose compensation and expenses shall be fixed by the board of supervisors, and which shall constitute an incidental expense in the cost of the work.

(Added by Stats.1957, c. 347, p. 989, § 4.)

Library References

Water Law ⇐2864.
Westlaw Topic No. 405.

§ 36–2.12. Engineer of work; direction of work; submission of assessment

Sec. 2.12. The board of supervisors may provide that the work shall be done under the direction and to the satisfaction of the engineer of work, that the material used shall comply with his specifications and be to his satisfaction, and that he shall submit an assessment to the board of supervisors for confirmation.

(Added by Stats.1957, c. 347, p. 989, § 5.)

Library References

Water Law ⇐2864.
Westlaw Topic No. 405.

§ 36–2.13. Repealed by Stats.1984, c. 1128, § 87

Historical and Statutory Notes

The repealed section, added by Stats.1957, c. 347, § 6, related to contract recordation of assessment and warrant in engineer's office. See Public Contract Code § 21022.

§ 36–2.14. Certified copy of assessment and diagram; recordation in county surveyor's office

Sec. 2.14. As an additional notice, a certified copy of any assessment and the diagram attached thereto issued under any of the acts referred to in Section 2.8 shall be recorded in the office of the county surveyor if the improvement district, or any part thereof, is in incorporated territory.

(Added by Stats.1957, c. 347, p. 990, § 7.)

§ 36–2.15. Proceedings under Special Assessment Investigation Limitation and Majority Protest Act of 1931; necessity; waiver

Sec. 2.15. No construction of any work or improvement shall be made or assessments levied or bonds issued therefor under Sections 2.8 to 2.14 inclusive, of this act, without prior proceedings having been taken pursuant to the Special Assessment Investigation Limitation and Majority Protest Act of 1931,[1] unless such proceedings have been waived as provided in the act.

(Added by Stats.1957, c. 347, p. 990, § 8.)

[1] Streets and Highways Code § 2800 et seq.

§ 36–3. Supervisors; officers; employees; ordinances, resolutions and legislative acts

Sec. 3. The Board of Supervisors of Orange County shall be, and they are hereby designated as, and empowered to act as, ex officio the board of supervisors of said Orange County Flood Control District, and said board of supervisors is hereby authorized to adopt reasonable rules and regulations to facilitate the exercise of its powers and duties herein set forth.

The county counsel, county clerk, county assessor, county tax collector, county auditor and county treasurer of the County of Orange, and their successors in office, and all their assistants, deputies, clerks and employees, and all other officers of said Orange County, their assistants, deputies, clerks and employees shall be ex officio officers, assistants, deputies, clerks and employees respectively of said Orange County Flood Control District, and shall respectively perform, unless otherwise provided by said board of supervisors, the same various duties for said district as for said Orange County without additional compensation in order to carry out the provisions of this act.

Said board of supervisors may in their discretion employ special counsel and appoint such other officers for said district as in their judgment may be deemed necessary, and prescribe their duties and fix their compensation, which said officers shall hold office during the pleasure of said board.

All ordinances, resolutions and other legislative acts for said district shall be adopted by said board of supervisors, and certified to, recorded and published, in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions or other legislative acts for the County of Orange.

(Stats.1927, c. 723, p. 1326, § 3. Amended by Stats.1957, c. 1036, p. 2271, § 3; Stats.1961, c. 305, p. 1346, § 1; Stats.1975, c. 114, p. 188, § 1.)

Library References

Water Law ⇐2864.
Westlaw Topic No. 405.

§ 36–3.1. Claims for money or damages; law governing

Sec. 3.1. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

(Added by Stats.1959, c. 1728, p. 4164, § 21. Amended by Stats.1963, c. 1715, p. 3416, § 122.)

Historical and Statutory Notes

Applicability of Stats.1963, c. 1715, p. 3369, see Historical and Statutory Notes under Government Code § 900.

Library References

Claims, actions and judgments against public entities and public employees; recommendation. Cal.Law Revision Comm. (1963) Vol. 4, p. 1007 et seq.

§ 36–3.2. Violation of ordinances or regulations; misdemeanor; fine and imprisonment; injunction by civil suit

Sec. 3.2. Any violation of an ordinance or regulation adopted pursuant to this act is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500), or imprisonment not to exceed 60 days, or by both such fine and imprisonment. Any violation or threatened violation of an ordinance or regulation of the district may also be enjoined by civil suit. Each day of such violation shall be considered a separate offense.

(Added by Stats.1976, c. 932, p. 2135, § 7.)

Cross References

Misdemeanors, definition and penalties, see Penal Code §§ 17, 19 and 19.2.

Library References

Water Law ⇐2911.
Westlaw Topic No. 405.

§ 36–4. Engineers; employment; investigation of plans; report; removal

Sec. 4. Said board of supervisors shall have jurisdiction and power, and it shall be their duty to employ by resolution a competent engineer or engineers to investigate carefully the best plan to control the flood and storm waters of said district, and the flood and storm waters of streams that have their source outside of said district but which stream and the floodwaters thereof flow into said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within or without said district, or to save or conserve in any manner, any or all of such

waters, and to protect the harbors, waterways, public highways and property in said district from damage from such waters; and to obtain such other information in regard thereto as may be deemed necessary or useful for carrying out the purposes of this act, and such resolution shall direct such engineer or engineers to make and file a report with said board of supervisors which shall show:

1. A general description of the work to be done.

2. General plans, profiles, cross-sections and general specifications of the work to be done.

3. A general description of the lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said work including existing drainage works.

4. A map which shall show the location of the proposed work and improvements, and lands, rights-of-way, easements and property to be taken, acquired or injured in carrying out said work, and any other information in regard to the same that may be deemed necessary or useful.

5. An estimate of the cost of such work, including an estimate of the cost of lands, rights-of-way, easements and property proposed to be taken, acquired or injured in carrying out said work, and also of all incidental expenses likely to be incurred in connection therewith, including legal, clerical, engineering, superintendence, inspection, printing and advertising, and stating the total amount of bonds necessary to be issued to pay for the same.

Such engineer or engineers, employed by said resolution shall have power and authority, subject to the control and direction of said board of supervisors, to employ such engineers, surveyors and others as may be required for making all surveys or doing any other work necessary for the making of such report.

The said board of supervisors may at any time remove any or all of the engineers or employees appointed or employed under this act, and may fill any vacancies occurring among them from any cause.

(Stats.1927, c. 723, p. 1327, § 4. Amended by Stats.1963, c. 401, p. 1206, § 2.)

Cross References

State policy regarding use of water, see Water Code §§ 100, 101.
Useful and beneficial purpose, construed, see Water Code § 1004.

Library References

Water Law ⚿2864, 2869.
Westlaw Topic No. 405.

§ 36–5. Engineer's report; adoption

Sec. 5. After the report of the engineer or engineers provided for in the next preceding action has been filed with the said board of supervisors, said board shall consider the same, and may by resolution either adopt the same as filed, or may refer such report to such engineer or engineers, or to any other engineer or engineers, to be modified or changed, and when a report satisfactory to said board of supervisors has been filed with said board by any such

engineer or engineers employed as aforesaid, the said board shall by resolution adopt said report, and state the amount of the entire estimated cost for which bonds are to be voted, and a finding in said resolution adopted by said board of supervisors as to the sufficiency of said report, and that the same complies with all the requirements of this act in relation thereto, shall be final and conclusive against all persons except the State of California upon suit commenced by the attorney general.

(Stats.1927, c. 723, p. 1328, § 5.)

Cross References

Attorney General, generally, see Government Code § 12500 et seq.

§ 36–6. Bond election

Sec. 6. After the adoption of the report by said board of supervisors, as above provided, said board shall without delay call a special election and submit to the qualified electors of said district the proposition of incurring a bonded debt in the amount and for the purposes stated in said report.

Said board of supervisors shall call such special election by ordinance, and shall recite therein the objects and purposes for which the indebtedness is proposed to be incurred; provided, that it shall be sufficient to give a brief general description of such objects and purposes, and refer to the report adopted by said board of supervisors, and on file for particulars; and said ordinance shall also state the estimated cost of the proposed work and improvements, the amount of the principal of the indebtedness to be incurred therefor, and what part of such indebtedness shall be paid each and every year, and which shall be not less than one-fortieth of the whole amount of such indebtedness, and the rate of interest to be paid on said indebtedness, and shall fix the date on which such special election shall be held, the manner of holding the same, and the manner of voting for or against incurring such indebtedness. The rate of interest to be paid on such indebtedness shall not exceed six per cent per annum.

For the purposes of said election, said board of supervisors shall in said ordinance establish election precincts within the boundaries of the said district, and may form election precincts by consolidating the precincts established for general election purposes in said district to a number not exceeding six for each such bond election precinct, and shall designate a polling place and appoint one inspector, one judge and two clerks for each of such precincts.

In all particulars not recited in such ordinance, such election shall be held as nearly as practicable in conformity with the general election laws of the State.

Said board of supervisors shall cause so much of said report as covers a general description of the work to be done, and the map showing the location of the proposed work and improvements, to be printed at least thirty days before the date fixed for such election, and a copy thereof furnished to every qualified elector of said district who shall apply for the same.

Said ordinance calling such election shall, prior to the date set for such election, be published ten times in one or more daily or four times in a weekly,

newspaper of general circulation, printed and published in said district, and designated by said board of supervisors for said purpose. No other notice of such election need be given.

Any defect or irregularity in the proceedings prior to the calling of such election shall not affect the validity of the bonds.

If at such election two-thirds of the votes cast are in favor of incurring such bonded indebtedness, then bonds of said district for the amount stated in such proceedings shall be issued and sold as in this act provided.

(Stats.1927, c. 723, p. 1328, § 6. Amended by Stats.1933, c. 765, p. 2026, § 6.)

Cross References

Official publications in newspapers of general circulation, see Government Code §§ 6000 et seq., 6040.

"Special and local elections" defined, see Elections Code §§ 328, 356, 10001.

Library References

Water Law ⇐2904.
Westlaw Topic No. 405.

§ 36–7. Bonds; form

Sec. 7. The board of supervisors shall, subject to this act, prescribe by ordinance or resolution the form of the bonds. The bonds shall be issued in registered form. The bonds shall be payable substantially in the following manner: The board of supervisors may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series; provided, that the earliest maturity of each issue or series, as the case may be, shall not be more than two years from the date of the bonds of that issue or series. The final maturity date of any bond shall not exceed 40 years from the date of the bond. The board of supervisors may determine in the resolution authorizing the issuance of the bonds that the principal amount of the bonds maturing each year shall be other than an amount equal to an equal annual proportion of the aggregate principal of the bonds, and it may determine that the amount of principal maturing in each year plus the amount of interest payable in that year shall as nearly as possible be an aggregate amount that is equal each year, except for the principal and interest due on the first series of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds, or it may make such other determination as to the amount of the aggregate principal of the bonds which shall mature in each year as it shall choose.

The bonds shall be issued in such denominations as the board of supervisors may determine, and shall be payable on the day and at the place fixed in the bonds, and with interest payable semiannually at the rate specified in the bonds, which rate shall not be in excess of the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code. The bonds shall be signed by the chairperson of the board of supervisors, and countersigned by the auditor of the County of Orange,

and the seal of the district shall be affixed thereto. The bonds may be authenticated by a paying agent selected by the board of supervisors, and the signatures of the chairperson and auditor thereon may be facsimile signatures. In case any officer whose signatures or countersignatures appear on the bonds shall cease to be such an officer before the delivery of the bonds to the purchaser, the signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds.

(Stats.1927, c. 723, p. 1329, § 7. Amended by Stats.1963, c. 401, p. 1207, § 3; Stats.1986, c. 987, § 2.)

§ 36–8. Bonds; issue and sale; payments

Sec. 8. The board of supervisors may issue and sell the bonds of the district authorized as provided in this act at not less than 95 percent of par value. The proceeds of the sale of the bonds shall be placed in the treasury of the County of Orange to the credit of the district, and the proper record of the transactions shall be placed upon the books of the county treasury. The district fund shall be applied exclusively to the purposes and objects mentioned in the ordinance or resolution calling the special bond election or, if pursuant to Sections 19.6 to 19.16, inclusive, no election is required, in the resolution confirming the engineer's report. Payments from the district fund shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the County of Orange.

(Stats.1927, c. 723, p. 1330, § 8. Amended by Stats.1963, c. 401, p. 1208, § 4; Stats.1986, c. 987, § 3.)

Library References

Water Law ⇐2904.
Westlaw Topic No. 405.

§ 36–9. Bonds; lien

Sec. 9. Any bonds issued under the provisions of this act shall be a lien upon all the taxable property of the district, and the lien for the bonds of any issue shall be a preferred lien to that of any subsequent issue. Said bonds and the interest thereon shall be paid by revenue derived from an annual tax upon all the taxable property within said district and all the taxable property in the district shall be and remain liable to be taxed for such payments as hereinafter provided.

(Stats.1927, c. 723, p. 1330, § 9.)

§ 36–10. Bond tax

Sec. 10. The board of supervisors shall levy a tax each year upon all the taxable property in such district sufficient to pay the interest upon said bonds for that year, and such portion of the principal thereof as is to become due before the time for making the next general tax levy. Such tax shall be levied and collected at the time and in the same manner as the general tax levy for

county purposes, and when collected shall be paid into the county treasury of said Orange county to the credit of said district fund, and be used for the payment of the principal and interest on said bonds, and for no other purpose. The principal and interest on said bonds shall be paid by the county treasury of said Orange county in the manner provided by law for the payment of principal and interest on bonds of said county.

(Stats.1927, c. 723, p. 1330, § 10.)

Cross References

Levy and collection of taxes, generally, see Revenue and Taxation Code §§ 2151, 2501 et seq.
Manner of payment of county bonds, see Government Code § 29911 et seq.

§ 36–11. Bond tax; law applicable

Sec. 11. The provisions of the Political Code of this state, prescribing the manner of levying, assessing, equalizing and collecting taxes, including the sale of property for delinquency, and the redemption from such sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

(Stats.1927, c. 723, p. 1331, § 11.)

§ 36–12. Bonds; legal investment

Sec. 12. The bonds of said Orange county flood control district issued pursuant to this act, shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds, and whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts or municipalities in the State of California, such money or funds may be invested in the said bonds of said district issued in accordance with the provisions of this act, and whenever bonds of cities, cities and counties, counties, school districts or municipalities, may by any law now or hereafter enacted be used as security for the performance of any act, such bonds of said district may be so used.

This section of this act is intended to be and shall be considered the latest enactment of the matters herein contained, and any and all acts or parts of acts in conflict with the provisions hereof are hereby repealed.

(Stats.1927, c. 723, p. 1331, § 12.)

§ 36–13. Bonds; force, value and use

Sec. 13. All bonds issued by said district under the provisions of this act are hereby given the same force, value and use as bonds issued by any municipality in this state, and shall be free and exempt from all taxation within the State of California.

(Stats.1927, c. 723, p. 1331, § 13.)

Library References

Water Law ⇐2871.
Westlaw Topic No. 405.

§ 36–13½. Acceptance of improvements or drainage systems; assumption of indebtedness; maintenance; special tax

Sec. 13½. The board of supervisors of said Orange County Flood Control District, by a four-fifths vote, may accept on behalf of said district a transfer and conveyance of any storm drain improvements, drainage improvements or drainage systems lying within the territorial limits of the flood control district and within any of the following described classes, to wit:

1. Those which were constructed under the jurisdiction, control or supervision of the board of supervisors of the County of Orange and which are under the jurisdiction of said board;

2. Those which were constructed by or for the County of Orange or any drainage district within said county or by or for the Orange County Flood Control District;

3. Those constructed pursuant to the provisions of an act entitled "An act to promote the drainage of wet, swamp and overflowed lands, and to promote the public health in communities in which they lie," approved March 21, 1903, as amended,[1] and those which have been constructed pursuant to the provisions of the Drainage District Improvement Act of 1919, as amended,[2] prior to January 1, 1939;

4. Those within any incorporated city, town or municipality of the County of Orange whose legislative body has transferred and conveyed such storm drain improvements, drainage improvements or drainage systems to said flood control district and incorporated cities, towns and municipalities lying within the County of Orange are hereby authorized to transfer and convey such storm drain improvements, drainage improvements or drainage systems to said flood control district. Upon the transfer or conveyance to said flood control district of any such storm drain improvements, drainage improvements or drainage systems, to pay the cost and expense of the construction of which bonds have been issued, said flood control district shall thereupon be and become liable for the payment of the principal upon the bonds maturing subsequent to the date of such conveyance and upon the indebtedness represented by interest coupons maturing subsequent to such date of transfer. The board of supervisors of the flood control district shall levy a special tax each year upon the taxable real property in said flood control district sufficient to pay the principal and interest on the bonds as such principal and interest become due subsequent to the date of such conveyance and transfer. Such tax shall be levied and collected on said real property at the time and in the same manner as the general tax levy for county purposes, and when collected shall be paid into the county treasury of said County of Orange and shall be used for the payment of the principal and interest on said bonds and for no other purpose. The principal and interest on such bonds shall be paid from the county treasury of said County of Orange in the manner provided by law for the payment of principal and interest on bonds

of said county. Whenever the acquisition of such drainage facilities has been included within a bond proposal of the flood control district and the electors have authorized the acquisition of such existing facilities and the issuance of bonds therefor, the board of supervisors in lieu of levying a special tax to pay the principal and interest of any bonds which have been heretofore issued and to pay the cost and expense of construction shall use the proceeds of the flood control district bond issue to retire the bonds on the facilities so acquired.

Upon the transfer or conveyance to said flood control district of any such storm drain improvements, drainage improvements or drainage systems, and acceptance by the board of supervisors said flood control district shall thereafter do all things necessary for the proper operation, maintenance, repair and improvement of any such storm drain improvements, drainage improvements or drainage systems.

The board of supervisors of the flood control district shall have power in any year to levy a special tax upon the taxable real property in said flood control district sufficient to pay the cost and expense of operating, maintaining, repairing and improving the storm drain improvements, drainage improvements, or drainage systems so conveyed and transferred, which said tax shall be levied and collected at the same time and in the same manner as the general tax for county purposes, and the revenue derived from said tax shall be paid into the county treasury to the credit of said district and said board of supervisors shall have the power to control and order the expenditure thereof for said purposes. Taxes levied under authority of this section shall be separate and distinct from, and shall be in addition to the taxes authorized to be levied under Section 14 of this act.

(Added by Stats.1939, c. 589, p. 1997, § 2. Amended by Stats.1963, c. 401, p. 1209, § 5.)

[1] See Water Code App. § 8–1 et seq.
[2] See Water Code App. § 31–1 et seq.

Cross References

Manner of levying and collecting tax, see Revenue and Taxation Code §§ 2151 et seq., 2501 et seq.

§ 36–14. Taxation; maximum levy; zones of benefit

Sec. 14. The board of supervisors of the district may, in any year, levy a tax or assessment upon taxable real property in the district, to carry out any of the objects or purposes of this act, and to pay the cost and expenses of constructing, maintaining, operating, extending, and repairing any works or improvements which are authorized by this act during the ensuing fiscal year. The board of supervisors may also levy such an assessment for payment of the local share of the cost of any works or improvements or project undertaken by the federal government or the state, or both, or payment of the annual amount of repayment of a loan or loans from the federal government or the state, or both, representing the local share of the cost of the works or improvements or project, or the district's annual share of the cost of the operation, maintenance, and repair of the works or improvements. The tax or assessment shall be

levied and collected and become delinquent at the same time and in the same manner and have the same lien priority as the general tax levy for county purposes, and bear the same penalties and interest after delinquency. The revenues derived from the tax or assessment shall be paid into the county treasury to the credit of the construction and maintenance fund of the district, and the board of supervisors may control and order the expenditure thereof for those purposes. The maximum tax levied under this section for any one fiscal year shall not exceed twenty cents ($0.20) on each one hundred dollars ($100) of the assessed valuation of the taxable property in the district, exclusive of any tax levied to meet the bonded indebtedness of the district, and the interest thereon.

Assessments levied pursuant to this section shall be based upon the benefit which each parcel of real property to be assessed will derive from the works and improvements to be constructed, maintained, operated, extended, or repaired. For purposes of levying any assessment, the board of supervisors may establish one or more zones of benefit, including parcels of real property which benefit similarly from those works and improvements, and may levy different assessments within those zones. The zones of benefit shall be identified and described in a resolution adopted by the board of supervisors. In levying assessments pursuant to this section, the board of supervisors may employ any of the procedures provided for in Sections 19.6 to 19.14, inclusive, which it deems appropriate. Proceedings for levying assessments pursuant to this section may be combined with proceedings for levying assessments pursuant to Sections 19.6 to 19.14, inclusive, and the procedures prescribed by those sections shall be modified as the board of supervisors deems necessary to accommodate the combination of the proceedings.

(Stats.1927, c. 723, p. 1331, § 14. Amended by Stats.1939, c. 589, p. 1998, § 3; Stats.1951, c. 1352, p. 3265, § 2, eff. July 9, 1951; Stats.1959, c. 1510, p. 3799, § 1; Stats.1969, c. 295, p. 662, § 1, eff. June 30, 1969; Stats.1986, c. 987, § 4.)

Cross References

Levy and collection of taxes for county purposes, generally, see Revenue and Taxation Code §§ 2151 et seq., 2501.

Library References

Water Law ⇐2888.
Westlaw Topic No. 405.

§§ 36–15 to 36–15.1. Repealed by Stats.1984, c. 1128, §§ 88 to 91

Historical and Statutory Notes

Section 36–15, enacted by Stats.1927, c. 723, § 15, amended by Stats.1939, c. 589, § 4, related to awarding contracts based on bids. See Public Contract Code §§ 21020.2 to 21020.9.

Section 36–15a, added by Stats.1939, c. 589, § 5, related to contract clauses required for federal aid. See Public Contract Code § 21023.

Section 36–15b, added by Stats.1939, c. 589, § 5.5, related to law applicable to contracts. See Public Contract Code § 21021.

Section 36–15.1, added by Stats.1973, c. 244, p. 634, § 1, related to negotiation of contracts without bids for emergency work. See Public Contract Code § 21024.

§ 36–16. Administrative rules; works; acquisition of property; condemnation

Sec. 16. The said board of supervisors of said district shall have power to make and enforce all needful rules and regulations for the administration and government of said district.

Said board of supervisors shall have power to do all work and to construct and acquire all improvements necessary or useful for carrying out any of the purposes of this act; and said board of supervisors shall have power to acquire either within or without the boundaries of said district, by purchase, donation or by other lawful means in the name of said district, from private persons, corporations, reclamation districts, swampland districts, protection districts, drainage districts, irrigation districts, or other public corporations or agencies or districts, all lands, rights-of-way, easements, property or materials necessary or useful for carrying out any of the purposes of this act; to make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers conferred by this act, or arising out of the use, taking or damage of any property, rights-of-way or easements, for any such purposes; to compensate any reclamation district, protection district, drainage district, irrigation district or other district, public corporation or agency or district, for any right-of-way, easement or property taken over or acquired by said Orange County Flood Control District as a part of its work of flood control or conservation or protection provided for in this act, and any such reclamation district, protection district, drainage district, irrigation district or other district or public corporation or agency is hereby given power and authority to distribute such compensation in any manner that may be now or hereafter allowed by law; to maintain actions to restrain the doing of any act or thing that may be injurious to carrying out any of the purposes of this act by said district, or that may interfere with the successful execution of said work, or for damages for injury thereto; to do any and all things necessary or incident to the powers hereby granted, or to carry out any of the objects and purposes of this act; to compel by injunction the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal, so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along any such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose.

The board of supervisors of said district is hereby vested with full power to do all other acts or things necessary or useful for the promotion of the work of the control of the flood and storm waters of said district, and to conserve such waters for beneficial and useful purposes, and to protect from damage from such storm or floodwaters the harbors, waterways, public highways and property in said district; provided, however, that nothing in this act contained shall be deemed to authorize said district, or any person or persons, to divert the

waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless, previous compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses; but provided, further, no right to take by condemnation any property shall exist on behalf of said district at a greater distance than 15 miles outside the exterior boundaries thereof; and provided, further, that nothing in this act contained shall be construed as in any way affecting the plenary power of any incorporated city, city and county, or town, or municipal or county water district, to provide for a water supply of such public corporation, or as affecting the absolute control of any properties of such public corporations necessary for such water supply, and nothing herein contained shall be construed as vesting any power of control over such properties in said Orange County Flood Control District, or in any officer thereof, or in any person referred to in this act; and provided, further, that nothing in this act contained shall be deemed to authorize said board of supervisors to raise money for said district by any method or system other than that by the issuing of bonds, or the levying of a tax upon the assessed value of all the taxable property in said district in the manner in this act provided.

(Stats.1927, c. 723, p. 1333, § 16. Amended by Stats.1961, c. 305, p. 1347, § 2; Stats.1975, c. 1276, p. 3484, § 14.)

Law Revision Commission Comments

1975 Amendment

The deleted portion of Section 16 [Water Code Appendix § 36–16] is superseded by the Eminent Domain Law. See Code Civ.Proc. §§ 1230.020 (uniform procedure), 1240.010 (declaration that use is a public use is unnecessary), 1240.610 et seq. (more necessary public use), 1250.210 (identification of plaintiff). The word "condemnation" is deleted from the second paragraph of Section 16 [Water Code Appendix § 36–16] to avoid any implication that the broad grant of condemnation authority under Section 2 [Water Code Appendix § 36–2] is limited to the types of property enumerated in Section 16 [Water Code Appendix § 36–16]. Under Section 16 [Water Code Appendix § 36–16], any type of property or right or interest therein may be taken by eminent domain. See Code Civ.Proc. §§ 1235.170, 1240.110. Also, the enumeration of specific types of property in Section 16 [Water Code Appendix § 36–16] does not limit the right to acquire other types of property by purchase or other means. Code Civ.Proc. § 1240.130; cf. Code Civ.Proc. § 1230.030.

Historical and Statutory Notes

Operative effect of 1975 amendment, see Historical and Statutory Notes under Water Code Appendix § 37–2.

Cross References

Eminent domain, see Const. Art. 1, § 19; Civil Code § 1001; Code of Civil Procedure §§ 1230.010 et seq., 1240.010 et seq.
State policy regarding the use of water, see Water Code § 100 et seq.
Useful and beneficial purposes, construed, see Water Code § 1004.

Library References

C.J.S. Eminent Domain §§ 40, 42.
Westlaw Topic Nos. 148, 405.
Water Law ⚿2864, 2865(4), 2871.
Eminent Domain ⚿30, 31.

Recommendations relating to condemnation law and procedure in special districts. 12 Cal.L.Rev.Comm. Reports 1101 (1974).

Sovereign immunity study. Cal.Law Revision Comm. (1963) Vol. 5, p. 88.

§ 36–16.1. Repealed by Stats.1975, c. 1276, p. 3486, § 15

Law Revision Commission Comments

1975 Repeal

Section 16.1 [Water Code Appendix § 36–16.1] is superseded by Code of Civil Procedure Sections 1240.350 and 1240.410 et seq.

Historical and Statutory Notes

The repealed section, added by Stats.1957, c. 1036, § 1, related to condemnation of part or parcel causing substantial damage to remainder.

Operative effect of 1975 repealer, see Historical and Statutory Notes under Water Code Appendix § 37–2.

§ 36–17. Cooperation

Sec. 17. Said board of supervisors of said district shall have full power and authority to cooperate with and to act in conjunction with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public or private corporation, in the construction of any work for the controlling of flood or storm waters of said district, or to monitor, test, or inspect such waters for the purpose of determining the quality thereof, or for the protection of property, or any of the harbors, channels, waterways, roads or highways in said district, or for the purpose of conserving said waters for beneficial use and to adopt a definite plan or system of work for such purpose, and when so adopted no substantial change affecting their interest shall thereafter be made in the same without the express consent of the officer, board, commission, department or agency of the state or federal government, or public or private corporation, in conjunction with which the same was originally adopted.

(Stats.1927, c. 723, p. 1335, § 17. Amended by Stats.1939, c. 589, p. 2001, § 6; Stats.1968, c. 522, p. 1169, § 3.)

Library References

Water Law ⇐2865(4).
Westlaw Topic No. 405.

§ 36–17a. Right of way over public lands

Sec. 17a. There is hereby granted to Orange County Flood Control District the right of way for the location, construction and maintenance of flood control channels, ditches, waterways, conduits, canals, jetties, embankments and protective works in, over and across public lands of the State of California, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of such works and adjuncts or for the protection thereof. Whenever any selection of a right of way for such

works or adjuncts thereto is made by the district the board of supervisors thereof must transmit to the State Lands Commission, the State Controller, and the recorder of the county in which the selected lands are situated, a plat of the lands so selected, giving the extent thereof and the uses for which the same is claimed or desired, duly verified to be correct. If the State Lands Commission shall approve the selections so made, it shall indorse its approval upon the plat and issue to the district a permit to use such right of way and lands.

(Added by Stats.1939, c. 589, p. 2001, § 7.)

Cross References

State Controller, generally, see Government Code § 12402 et seq.

Library References

Water Law ⇐2871.
Westlaw Topic No. 405.

§ 36–18. Additional bonds

Sec. 18. Whenever said board of supervisors shall by resolution passed by a vote of four-fifths of all its members determine that the public interest or necessity of said district demands the issuance of additional bonds for carrying out the work of flood control, or for any of the purposes of this act by said district, said board of supervisors may again proceed as in this act provided, and have a report made and submit to the qualified voters of said district the question of issuing additional bonds in the same manner and with like procedure as hereinbefore provided, and all the above provisions of this act for the issuing and sale of such bonds, and for the expenditure of the proceeds thereof, shall be deemed to apply to such issue of additional bonds.

(Stats.1927, c. 723, p. 1335, § 18. Amended by Stats.1955, c. 1, p. 429, § 1, eff. January 13, 1955.)

Library References

Water Law ⇐2904.
Westlaw Topic No. 405.

§ 36–18.5. Expenditure for purpose bonds voted unwise; special election to use money for other purposes

Sec. 18.5. Whenever the said board of supervisors of said district determines by resolution that the expenditure of money raised by the sale of bonds for the purpose for which the bonds were voted is impracticable or unwise, it may call a special election to obtain the consent of the electors to use the money for any lawful purpose authorized by this act without specifying the particular purpose or purposes.

The procedure for the calling and holding of said election shall, so far as practicable, be the same as when the bond proposition was originally submitted, except that the provisions relating to the preparation, submission and approval of an engineer's report shall be inapplicable.

(Added by Stats.1955, c. 1, p. 429, § 2, eff. January 13, 1955.)

Library References

Water Law ⇐2904.
Westlaw Topic No. 405.

§ 36–19. Bond election; adverse vote; time for new election

Sec. 19. Should the proposition of issuing bonds submitted at any election under this act fail to receive the requisite number of votes of the qualified voters voting at such election to incur the indebtedness for the purpose specified, the said board of supervisors of said district shall have power and authority at the expiration of six months after such election, to call or order another election for incurring indebtedness and issuing bonds under the terms of this act, either for the same objects and purposes, or for any of the objects and purposes of this act.

(Stats.1927, c. 723, p. 1335, § 19.)

Library References

Water Law ⇐2904.
Westlaw Topic No. 405.

§ 36–19.5. Bonds; retirement; rejection of offers to sell to district; payment of Installments of principal or interest

Sec. 19.5. Any funds received by the district from the Federal Government, or any department, agency, or instrumentality thereof, as reimbursement to the district for funds previously expended by it, or otherwise, together with any funds received by the district as income, other than income received by taxation, and including all funds received by the district as the result of the sale, lease or rental of the property of the district, may, by resolution adopted by the board of supervisors of the district, be used to purchase and retire the outstanding bonds of the district.

The board may reject any or all offers to sell such bonds to the district. All such bonds purchased by the district shall be purchased at a price which shall not exceed the prevailing market price and in no event shall the purchase price be more than 5 per cent above the par value.

All funds of the district available for the purchase and retirement of bonds under the provisions of this section may also, by resolution adopted by the board of supervisors of the district, be used to pay installments of principal or interest due, or to become due, upon the outstanding bonds of the district.

(Added by Stats.1940, Ex.Sess., c. 42, p. 117, § 2.)

Historical and Statutory Notes

Former Notes

Former § 19.5, added by Stats.1940, 1st Ex. Sess., c. 17, p. 42, § 2, relating to purchase and retirement of bonds by the Orange County Flood Control District, was repealed by Stats. 1940, 1st Ex.Sess., c. 42, p. 118, § 5.

§ 36–19.6. Bond issues; reports

Sec. 19.6. The board of supervisors may determine that it may be necessary to sell bonds of the district to finance needed flood control improvements for

the protection and benefit of portions of the district which the board determines cannot be financed from annual revenues from taxes or assessments, or both, over a period of years without selling bonds. The board of supervisors may also determine that it may be necessary to sell bonds of the district to finance the local share of the cost of any flood control improvements or projects undertaken by the federal government or the state, or both. The board of supervisors shall make these determinations by adopting a resolution indicating its intention to finance the improvements through the issuance of bonds, generally describing the improvements to be financed with the proceeds of the bonds and referring the improvements to an engineer selected by the board and therein named for the preparation and filing with the board of a report with regard to the proposed improvements. The portions of the district which will benefit from the sale of the bonds and the flood control improvements to be financed shall be designated in the resolution of the board making those determinations as the area of benefit for the specified project, or by some similar designation.

The report shall contain, among other things, all of the following:

(a) A general description of the improvements.

(b) Estimates of the cost of the improvements, the cost of land, rights-of-way, and easements, incidental expenses in connection with the improvements, and expenses in connection with the issuance of the bonds, and if part of the cost of the improvements will be paid from contributions from the federal government or the state, or both, an estimate of the expected total amount of those contributions.

(c) A map which shows the location of the proposed improvements and lands, rights-of-way, easements, and property to be taken, acquired, or injured in carrying out the construction of the improvements, and any other information in regard to those matters as may be deemed useful. However, improvements, lands, rights-of-way, easements, and property which will be located outside the district or outside the area of benefit need not be shown on the map.

(d) A map or maps showing the location of the lots and parcels of property in the area of benefit which will derive special benefit from the proposed improvements and which are proposed to be assessed for the cost thereof.

(e) A listing by county assessor's parcel numbers of the lots and parcels of property within the area of benefit which will derive special benefit from the improvements and which are proposed to be assessed and pay annual assessments for the payment of principal and interest on the bonds, and the estimated maximum amount of the annual assessment to be levied on each lot or parcel.

(f) A general analysis of the engineer's determination as to how the lots and parcels proposed to be assessed in the area of benefit and each proposed zone of benefit therein will derive special benefit from the proposed improvements.

The engineer may propose in the report that parcels of property in the area of benefit which benefit similarly but differently from other parcels from the improvements be included in different zones of benefit which shall be identified by boundary lines on the map or maps specified in subdivision (d). If the

engineer proposes in the report the establishment of different zones of benefit, the listing referred to in subdivision (e) shall also identify the zone of benefit in which each lot or parcel is proposed to be included.

(Added by Stats.1986, c. 987, § 5.)

§ 36–19.7. Flood protection improvements; assessments of property specially benefitted

Sec. 19.7. If the improvements are proposed to provide protection against flooding in a floodway or flood plain designated on the general plan of the County of Orange or any city therein or a flood plain area or flood-risk zone established by the Secretary of Housing and Urban Development of the United States pursuant to Section 4101 et seq. of Title 42 of the United States Code[1], the fact that a lot or parcel of property is located within that floodway or flood plain or flood-risk area shall be conclusive evidence that it will derive special benefit from the improvements. Assessments based on special benefit may be levied on lots and parcels of property included in an area of benefit or in zones of benefit therein on the basis of proportionate stormwater runoff.

(Added by Stats.1986, c. 987, § 6.)

[1] 42 U.S.C.A. § 4101 et seq.

§ 36–19.8. Hearings; notice

Sec. 19.8. (a) When the report of the engineer is filed with the board of supervisors, the board may at a regular or special meeting approve the report and schedule a hearing thereon. The hearing shall be scheduled not earlier than 30 days and not later than 90 days following approval of the report. Notice of the hearing shall be published pursuant to Section 6066 of the Government Code, and the first publication shall occur not later than 20 days before the date of the hearing. The notice to be published shall be entitled "Notice of Flood Control Improvements," shall include the time and place of the hearing on the proposed improvements and on the proposed bonds and annual assessments, shall generally describe the proposed improvements and the proposed area of benefit and refer to the report of the engineer for further particulars, shall state that the board of supervisors is considering issuing bonds to finance the cost of the proposed improvements, or the local share thereof, and the amount of the bonds which would be issued, shall also state that the board of supervisors is considering levying annual assessments on lots and parcels of property within the area of benefit to pay principal and interest on the bonds, and shall contain the name and telephone number of an officer or employee of the district to answer inquiries regarding the protest proceedings.

(b) A notice of the time and place of the hearing shall also be mailed, postage prepaid, to all persons owning real property proposed to be assessed as their names and addresses appear on the last equalized assessment roll for county taxes. The notices shall be mailed not later than 20 days before the date of the hearing. The notices to be mailed shall be entitled "Notice of Flood Control Improvements" and shall contain all of the following:

(1) A statement of the time, place, and purpose of the hearing on the improvements and the proposed annual assessments.

(2) A statement of the total estimated cost of the proposed improvements.

(3) A statement that the board of supervisors proposes to issue and sell bonds to finance the cost of the proposed improvements, or the local share thereof, and to levy annual assessments on lots and parcels of property within the area of benefit which will derive special benefit therefrom to pay the principal of, and interest on, the bonds.

(4) The estimated maximum amount of the annual assessment to be levied on the particular parcel of property to which the notice relates, and a statement that the annual assessment to be levied on the parcel may not exceed 110 percent of that estimated maximum amount.

(5) A statement that any owner of a lot or parcel of property proposed to be assessed for the cost of the improvements or the payment of the principal of and interest on the bonds may file a written protest with the clerk.

(6) The name and telephone number of an officer or employee of the district designated by the board of supervisors to answer inquiries regarding the protest proceedings.

(c) If the engineer's report proposes the designation of two or more zones of benefit within the area of benefit wherein parcels will be assessed different amounts of annual assessments, the notice shall also advise each owner of this and of the zone in which his or her lot or parcel will be located.

(Added by Stats.1986, c. 987, § 7.)

§ 36–19.9. Assessments; protests

Sec. 19.9. Any owner of a lot or parcel of property proposed to be assessed annual assessments for the payment of the principal of and interest on the bonds may protest the proposed improvements, the extent of the area of benefit or any proposed zone of benefit, or the proposed maximum annual assessment against his or her lot or parcel by filing a written protest with the clerk at or before the time set for the hearing. Each protest shall contain a description of the lot or parcel in which each signer thereof has an ownership interest sufficient to identify the same and, if the signers are not shown on the last equalized assessment roll as the owners of the lot or parcel, the protest shall contain or be accompanied by written evidence that the signers are the owners of the property. The clerk shall endorse on each protest the date of its receipt, and at the time appointed for the hearing shall present to the board of supervisors all protests filed with the clerk.

(Added by Stats.1986, c. 987, § 8.)

§ 36–19.10. Engineer's reports; zone of benefit boundaries

Sec. 19.10. At the time of the hearing, the engineer's report shall be summarized and the board of supervisors shall afford all persons who are present an opportunity to comment upon, object to, or present evidence with

regard to, the proposed improvements, the proposed area of benefit and zones of benefit, the issuance and sale of the bonds, the proposed estimated maximum amount of annual assessment against any lot or parcel of property, or any other matter relating thereto. At the conclusion of the hearing, the board of supervisors may confirm the report of the engineer or direct its modification in any respect, and thereafter confirm the report as modified. The board may change the boundaries of the area of benefit or any zone of benefit identified in the report to exclude lots and parcels of property which it determines will not derive special benefit from the proposed improvements, but may not change the boundaries of the area of benefit or any zone of benefit therein to include lots and parcels which are not listed in the report. The hearing may be continued from time to time not exceeding a total of 180 days.

(Added by Stats.1986, c. 987, § 9.)

§ 36–19.11. Zones of benefit; protests; elections

Sec. 19.11. If the board of supervisors finds that written protests filed at or before the time of the hearing are signed by the owners of more than 25 percent of the area of land in the area of benefit or in any proposed zone of benefit therein, and protests are not withdrawn at the time of the hearing so as to reduce the percentage of protest for all proposed zones of benefit below that percentage, the board of supervisors shall either abandon the proceedings or by duly adopted resolution submit the propositions of the issuance of the bonds and the levy of the assessments to the voters within each zone of benefit from which the protest was received and not so reduced, and shall not proceed further with the proceedings as to any zone of benefit unless a majority of the combined votes cast at the election in all zones of benefit wherein it is held are in favor of the issuance of bonds and the levy of assessments. The board of supervisors may elect to submit the question of the issuance of the bonds and the levy of the assessments to the voters in all zones of benefit.

(Added by Stats.1986, c. 987, § 10.)

§ 36–19.12. Election dates; precincts; officers

Sec. 19.12. The election may be called on any of the election dates prescribed by Section 2500 of the Elections Code, and the propositions regarding the issuance of the bonds and the levy of annual assessments for the payment of the principal of, and interest on, the bonds shall be combined in single ballot measure. The election shall be conducted as nearly as practicable in conformity with the general election law of the state. The election may be consolidated with any other elections which will be conducted on the same date within the zone or zones of benefit where the election will be held. The board of supervisors may form election precincts by adopting the precincts established for general elections or by consolidating precincts within the zone or zones of benefit where the election is to be held, and shall appoint only one inspector, two judges, and one clerk for each precinct. The district shall pay the county for costs incurred by the county in conducting the election.

(Added by Stats.1986, c. 987, § 11.)

§ 36–19.13. Abandonment of proceedings; failure to receive approval

Sec. 19.13. If the board of supervisors abandons the proceedings rather than call an election, or if an election is held and the required approving vote is not received, it shall not initiate similar proceedings within a period of 180 days from the date of adoption of the resolution ordering abandonment of the proceedings or the date of the election.

(Added by Stats.1986, c. 987, § 12.)

§ 36–19.14. Engineer's report; confirmation; zone of benefit boundaries

Sec. 19.14. If at the conclusion of the hearing the board of supervisors determines that protests received for the area of benefit and for each of the proposed zones of benefit therein are below the percentage set forth in Section 19.11 or if the propositions regarding issuance of the bonds and the levy of annual assessments are submitted to election in any zone of benefit and the combined votes cast in all zones of benefit wherein the election is held are in favor of the propositions, the board may adopt a resolution confirming the engineer's report, and, ordering the improvements, or payment of the local share of the cost thereof, if the improvements are to be undertaken by the federal government or the state, or both, and the issuance of the bonds. The board shall also establish in this resolution the boundaries of the area of benefit and all zones of benefit therein by reference to the map or maps contained in the confirmed engineer's report.

(Added by Stats.1986, c. 987, § 13.)

§ 36–19.15. Bond issues; competitive bids; negotiated sales

Sec. 19.15. The board of supervisors may authorize the issuance of bonds on the basis of competitive bids or negotiated sale. The board of supervisors shall establish a process for selecting bond counsel, including at least two proposing firms. If the bonds are to be sold on the basis of a negotiated sale, the board of supervisors shall establish a process of selecting underwriters including at least five proposing underwriter firms, unless the board finds, four-fifths of its members concurring, that fewer than five underwriting firms are willing to submit proposals. If competitive bids are to be received, notice of the time and place of the receipt of bids shall be published in a financial journal of general circulation in the state as provided in Section 6066 of the Government Code. The bonds shall be issued and sold as provided in and be subject to Sections 7 to 9, inclusive.

(Added by Stats.1986, c. 987, § 14.)

§ 36–19.16. Special benefits from improvements; assessment

Sec. 19.16. After the authorization and sale of bonds pursuant to Sections 19.6 to 19.15, inclusive, the board of supervisors shall levy an assessment each year upon the lots and parcels of property identified and listed in the engineer's report based upon the special benefit to be derived thereby from the improvements as specified therein in a total amount sufficient to pay interest on the

bonds for that year and that portion of the principal thereof as is to become due before the time for making the next general tax levy. The board may also include in the total amount of the assessment levied in any year the estimated amount of the district's cost of levying and collecting the assessments, the cost of registration, transfer, and payment of the bonds, the expected amount of delinquency in payment of assessments, and the amount, if any, needed to replenish the reserve fund for the bonds as a result of past delinquencies in payment of assessments. However, the amount of the annual assessment on any lot or parcel in any year shall not exceed 110 percent of the estimated amount of the maximum annual assessment set forth in the engineer's report for the lot or parcel. The annual assessments shall be levied, collected, and become delinquent at the same time and in the same manner and have the same lien priority and bear the same penalties and interest after delinquency as the general tax levy for county purposes. When collected, the assessments collected shall be paid into the county treasury of the County of Orange to the credit of the district, and be used for the payment of the principal of, and interest on the bonds, the replenishment of the reserve fund for the bonds, and the district's expenses incurred in collecting the assessments, and for no other purpose. The principal of, and interest on, the bonds shall be paid by the county treasurer of the county in the manner provided by law for the payment of principal of, and interest on, bonds of the county, except that the board of supervisors may determine in the resolution authorizing the issuance of the bonds that the principal and interest shall be paid by a paying agent, other than the county treasurer, named therein.

(Added by Stats.1986, c. 987, § 15.)

§ 36–19.17. Reserve fund

Sec. 19.17. The board of supervisors may include in the aggregate principal amount of the bonds an amount for a reserve fund for the payment of the principal of, and interest on, the bonds in the event that as a result of delinquencies in the payment of annual assessments levied on benefiting lots and parcels there is a deficiency in the amount needed for the payment of principal and interest. The amount to be included for the reserve fund shall not exceed 15 percent of the total principal amount of the bonds. The reserve fund and all interest earned thereon shall be used solely for the payment of the principal of, and interest on, the bonds, if there is a deficiency, and then only to the extent of the deficiency. Notwithstanding any other provision of this section, for the purposes of assuring that the bonds will not become arbitrage bonds as defined in the Internal Revenue Code of 1954 (Title 26 of the United States Code)[1] and regulations promulgated thereunder by the Department of Treasury, and providing for a reduction of the amount of money in the special reserve fund during the term of the bonds, the board of supervisors may, by resolution adopted prior to the issuance of the bonds, provide that money in the reserve fund, including investment income, shall be transferred to the redemption fund for the bonds for advance retirement of the bonds. The balance remaining in the reserve fund at the time of the levy of the annual assessments for the payment of the principal of and interest on the last series of the bonds

shall be transferred to the redemption fund and taken into consideration by the board of supervisors in determining the aggregate amount of the annual assessments to be levied for the payment of the principal and interest. In lieu of establishing a reserve fund or in addition thereto, the board of supervisors may, in determining the amount of the assessments to be levied on lots and parcels benefiting from the improvements in any year, include in the assessments a proportionate share of any expected amount of delinquency in payment of assessments, or a proportionate share of the amount needed to replenish the reserve fund as a result of past delinquencies in the payment of assessments.

Notwithstanding the preceding provisions of this section, if any amendment to the Internal Revenue Code of 1954 or the regulations of the Department of Treasury thereunder require a different allocation or utilization of the amount of the reserve fund or the earnings thereon than is herein provided, the board of supervisors shall order that action with regard to the reserve fund or the earnings thereon as is required by that code or regulations to avoid the interest on the bonds becoming taxable.

(Added by Stats.1986, c. 987, § 16.)

[1] 26 U.S.C.A. § 1 et seq.

§ 36–19.18. Alternative authorization for improvements

Sec. 19.18. Sections 19.6 to 19.17, inclusive, provide alternative authorization and proceedings for making improvements, or paying the local share of the cost thereof, and issuing bonds, and may be pursued by the board of supervisors in lieu of any other similar proceedings which are authorized by this act.

(Added by Stats.1986, c. 987, § 17.)

§ 36–19.19. Validity of proceedings; contests; appeals

Sec. 19.19. The validity of any proceedings for the issuance of bonds conducted pursuant to Sections 19.6 to 19.17, inclusive, shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the adoption by the board of supervisors of a resolution or resolutions confirming, or modifying and confirming as modified, the engineer's report and authorizing the issuance of bonds. An appeal from a final judgment in such an action or proceeding shall be perfected within 30 days after the entry of judgment. Bonds issued pursuant to Sections 19.6 to 19.17, inclusive, shall be conclusive evidence of the regularity of all proceedings leading up to the issuance of the bonds.

(Added by Stats.1986, c. 987, § 18.)

§ 36–19.20. Validity of bonds; procedure

Sec. 19.20. An action to determine the validity of bonds issued pursuant to Sections 19.6 to 19.17, inclusive, and of the annual assessments to be levied on lots and parcels which will derive special benefit from the improvements to be financed therewith to pay the principal of and interest on the bonds, or to determine the validity of assessments levied pursuant to Section 14, may be

brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(Added by Stats.1986, c. 987, § 19.)

§ 36–19.21. Establishment of area of benefit; recordation; notice

Sec. 19.21. The board of supervisors shall, upon confirming the engineer's report and establishing the boundaries of the area of benefit pursuant to Section 14 or Section 19.14, record with the County Recorder of the County of Orange a notice of the establishment of the area of benefit. The notice shall be captioned "Notice of Establishment of Area of Benefit for the _____ Project of the Orange County Flood Control District," and shall provide notice of the boundaries of the territory included in the area of benefit by reference to sections, townships, and ranges of the United States Government Survey of public lands, or a map or maps showing the boundaries which may be recorded with the notice. The notice shall further provide notice that all lots and parcels of land in the area of benefit are subject to the annual levy of assessments for the payment of the cost of the construction, maintenance, operation, extension, and repair of any works or improvements or the payment of principal and interest on bonds of the district sold to finance those improvements, or the local share of the cost thereof, and that the amount of annual assessment for any lot or parcel therein may be obtained from the chief engineer of the district. If the board of supervisors determines to provide notice of the boundaries of the territory included in the area of benefit by reference to the sections, townships, and ranges of the United States Government Survey, it need not specifically identify the boundaries, but shall by that reference generally identify the territory included therein. The notice shall be signed on behalf of the district by the chairman of the board of supervisors or the chief engineer. The recording of the notice shall impart constructive notice of its contents to purchasers and mortgagees of property in the area of benefit.

(Added by Stats.1986, c. 987, § 20.)

§ 36–19.22. Special Assessment Investigation, Limitation and Majority Protest Act; inapplicability

Sec. 19.22. The Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800) of the Streets and Highways Code) does not apply to assessments levied pursuant to Section 14 or Sections 19.6 to 19.14, inclusive.

(Added by Stats.1986, c. 987, § 21.)

§ 36–20. Repeals or amendments; effect upon obligations

Sec. 20. No repeal or amendment of this act which shall in any way affect or release any of the property in said district from the obligations of any outstanding bonds or indebtedness of said district, shall go into effect or be

valid or become operative until all such bonds and outstanding indebtedness have been fully paid and discharged.

(Stats.1927, c. 723, p. 1336, § 20.)

Library References

Water Law ⇐2856, 2857.
Westlaw Topic No. 405.

§ 36–21. Liberal construction

Sec. 21. This act, and every part thereof, shall be liberally construed to promote the objects thereof, and to carry out its intents and purposes.

(Stats.1927, c. 723, p. 1336, § 21.)

§ 36–22. Partial invalidity

Sec. 22. In case any section or sections, or part of any section, of this act, shall be found to be unconstitutional or invalid, for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect.

(Stats.1927, c. 723, p. 1336, § 22.)

§ 36–23. Title of act

Sec. 23. This act may be designated and referred to as the "Orange county flood control act" and any reference thereto by such designation shall be deemed sufficient for all purposes.

(Stats.1927, c. 723, p. 1336, § 23.)

CHAPTER 37

AMERICAN RIVER FLOOD CONTROL DISTRICT ACT

Section

37–1. Creation of district; boundaries.
37–1.5. Boundaries; state maintenance areas 10 and 11.
37–2. Object and purposes of act; powers of district.
37–3. Trustees.
37–4. Election of trustees.
37–5. Trustees; vacancies.
37–6. Trustees; candidates.
37–6.1. Insufficient number of nominees; cancellation of election.
37–6.2. Number of nominees equal to number of offices, appointment of nominees; number of nominees fewer than number of offices, appointment of qualified persons.
37–6.3. Statement of district secretary concerning elections and nominations.
37–6.4. Time for trustees to take office.
37–7. Trustees; compensation; president; office; meetings.
37–8. Estimate of money needed; surveys, plans, etc.; zones.

KEVIN M. ONUMA
Registered Civil Engineer

[redacted]

SUMMARY

Highly resourceful, licensed engineering professional. Extensive public works experience, possessing strong analytical skills with experience varying from planning, programming and design to emergency management and operations and maintenance.

PROFESSIONAL EXPERIENCE

ORANGE COUNTY PUBLIC WORKS DEPARTMENT SANTA ANA, CA

Performed work in 12 different roles/positions since 1989 including the following:

September 2015 to Present – Deputy Director, OC Operations & Maintenance
Responsible for leading and managing the OC Operations & Maintenance (O&M) Service Area which consists of 5 lines of business (City Contracts, General Maintenance, Maintenance Programs, Equipment Operations and Emergency Management) and 147 positions. Administration of a $74 million total annual budget for the O&M Service Area.

- Oversaw the preparation of the department's first multi-year maintenance plan to ensure proper prioritization, scheduling, budgeting, workload management and coordination of major maintenance activities and projects.
- Responsible for the maintenance of 326 miles of roadways in unincorporated areas, 380 miles of regional flood control channels, 8 pump stations and other public infrastructure such as dams and retarding basins.
- Responsible for oversight of storm and other emergency responses, activating the Department Operations Center and acting as one of the County's Applicant Agents for Federal disaster reimbursements.
- Responsible for emergency management coordination for the department with the OC Sheriff's Department's Emergency Management Division and representing OC Public Works in the Policy Group during Emergency Operations Center activations.
- Represents OC Public Works as a voting member on the 800 MHz Governance Committee, the Emergency Management Council and Operational Area Executive Board.

July 2020 to Present – Interim Deputy Director, OC Facilities Maintenance & CUF (Concurrent with Deputy Director role for OC Operations & Maintenance)
Responsible for managing the OC Facilities Maintenance & CUF Service Area which consists of 4 lines of business (Facilities Maintenance, Maintenance Support, Central Utility Facility Operations and Custodial Services) and 129 positions. Administration of a $65 million total annual budget for the OC Facilities Maintenance & CUF Service Area.

- Responsible for oversight of the sections that manage contract vendors for maintenance support for County facilities, provide for the operation and repair for all County facilities, provide after-hours emergency services and provide custodial services for County facilities via in-house staff and contracted services.
- Responsible for oversight of the Central Utility Facility Operations section which manages the County's microgrid utility that provides a combination of electricity, cooling, heating and chilled water to buildings in the Santa Ana Civic Center.

March 2014 to September 2015 – Deputy Director, OC Infrastructure Programs
Responsible for the OC Infrastructure Programs Service Area which consisted of 7 lines of business (Project Management, Regulatory & Policy, Traffic Engineering, Programming, Flood Program Support, Design and Santa Ana River Project) and 109 positions. Administration of an approximately $70-80 million total annual budget (not including capital improvement projects) for the OC Infrastructure Programs Service Area.

- **Served as the interim County Engineer for OC Public Works from May 2014 to August 2015.**
- Responsible for the planning, programming, budgeting, design, project management and award of road and flood control capital improvement projects.
- Responsible for ensuring the proper technical review and resolving issues faced during the review of reports, plans or other documents for road and flood control facilities from developers, consultants, outside agencies and/or permitees.
- Responsible for policy recommendations and support on legislative items for road and flood control issues.

- Responsible for emergency management coordination for the department with the OC Sheriff's Department's Emergency Management Division and representing OC Public Works in the Policy Group during Emergency Operations Center activations.
- Represented OC Public Works as a voting member on the Emergency Management Council and Operational Area Executive Board.
- Provided technical support and participated in trips to Washington, D.C. for meetings with Congressional offices, White House Office of Management and Budget, Office of the Assistant Secretary of the Army (Civil Works), U.S. Army Corps of Engineers Headquarters, Senate Environment and Public Works Committee staff, Senate Energy and Water Development Appropriations Subcommittee staff, NOAA National Marine Fisheries Service, etc.

February 2008 to March 2014 – Manager, Flood Control Division
Responsible for the Flood Control Division which consists of the Flood Program, Flood Control Design, and Santa Ana River Project Sections and OC Watersheds (April to September 2012) Division and up to 86 positions. Administration of an approximately $50-100 million total annual budget (including capital improvement projects, land acquisition, etc.) for the Flood Control Division.

- Responsible for the planning, programming, budgeting, design, project management and award of flood control capital improvement projects.
- Responsible for ensuring the proper technical review and resolving issues faced during the review of reports, plans or other documents from developers, consultants, outside agencies and/or permitees.
- Responsible for policy recommendations and support on legislative items for flood control issues.
- Responsible for emergency management coordination for the department with the OC Sheriff's Department's Emergency Management Division and representing OC Public Works in the Policy Group during Emergency Operations Center activations.
- Represented OC Public Works on the Emergency Management Council and Operational Area Executive Board.
- Provided technical support and participated in trips to Washington, D.C. for meetings with Congressional offices, White House Office of Management and Budget, Office of the Assistant Secretary of the Army (Civil Works), U.S. Army Corps of Engineers Headquarters, Senate Environment and Public Works Committee staff, Senate Energy and Water Development Appropriations Subcommittee staff, NOAA National Marine Fisheries Service, etc.

August 2005 to February 2008 – Manager, Flood Control Division/Flood Program
Responsible for the Flood Program office which consists of the Hydrology, Development Support, Programming and Long Range Planning Sections and 18 positions. Administration of an approximately $30 million total annual budget for Flood Programs.

- Responsible for the planning, programming, and budgeting of flood control capital improvement projects.
- Responsible for ensuring the proper technical review and resolving issues faced during the review of reports, plans or other documents from developers, consultants, outside agencies and/or permitees.
- Responsible for the preparation of engineering reports (hydrology, concept, and project reports) for short and long term flood control improvement projects.
- Responsible for the oversight of coordination, negotiation, and/or preparation of easements, deeds, and agreements with public and private entities.
- Responsible for the review of floodplain reports and analyses and coordination with the Federal Emergency Management Agency on the National Flood Insurance Program and Community Rating System Program.

November 2001 to August 2005 – Senior Civil Engineer, Program Development Division/Development Support Section
Responsible for supervising the Development Support section that consisted of engineering and technical staff.

- Responsible for the planning, phasing, coordination and conceptual design of flood control improvements.
- Responsible for overseeing the preparation of studies for regional flood control planning or other engineering issues. Preparation of scopes of work and contract documents. Development of policy recommendations on flood control issues.
- Review of environmental impact reports, negative declarations, notices of preparation, encroachment permits, concept reports, preliminary design reports, hydraulic studies, hydrology reports, runoff management plans, etc. by developers and outside agencies to insure conformance with Orange County Flood Control District (OCFCD) standards and criteria.
- Preparation, review and negotiation of agreements, easements and deeds involving developers and outside agencies.

July 1999 to November 2001 – Senior Civil Engineer, Program Development Division/Hydrology Section
Responsible for supervising the Hydrology section that consisted of engineering and technical staff.

- Responsible for overseeing the preparation of hydrology reports and studies for regional flood control planning, analysis, design, and construction. Development of policy recommendations on hydrology and flood control issues.
- Review of hydrology submittals by developers and outside agencies to insure conformance with OCFCD standards and criteria. Review of environmental impact reports, negative declarations, notices of preparation, encroachment permits, concept reports, preliminary design reports, etc.

May 1998 to July 1999 – Civil Engineer, Design Division/Flood Control Design
Responsible for the design, review, and engineering analyses for regional flood control facilities; and project coordination with landowners and agencies such as Caltrans & the U.S. Army Corps of Engineers.

January 1994 to May 1998 - Civil Engineer, Program Development Division/Flood Control Programs
Responsible for planning, phasing, coordinating, and conceptually designing short and long term flood control improvements; providing hydrologic and hydraulic engineering support; preparing engineering studies, hydrology reports, project reports, easements, deeds, and agreements; reviewing permit applications, proposals and reports from public and private entities.

August 1990 to January 1994 - Civil Engineering Assistant, Transportation Function/Transportation Program Division
Responsible for planning, phasing, and conceptually designing short and long term street improvements; coordinating projects with residents, cities, and other agencies; providing highway design support; preparing conceptual plans, cost estimates, and project reports; conducting public meetings to present project proposals.

December 1989 to August 1990 - Engineering Technician, Transportation Function/Transportation Program Division
Responsible for providing road programming support including the preparation of conceptual plans, exhibits, and, estimates.

LICENSES/EDUCATION

REGISTERED CIVIL ENGINEER - California RCE #51746.

HARVEY MUDD COLLEGE - May 1989 - Bachelor of Science in Engineering Claremont, CA

- General engineering curriculum including three semesters of industrially sponsored clinic projects. Courses stressed analytical thinking for solving highly technical problems.

UNIVERSITY OF CALIFORNIA, IRVINE

- Transportation Engineering (1990), Reinforced Concrete Design (1992), Hydraulic Systems (1992), Hydrology (1994)

COUNTY OF ORANGE

- Professional Development Experience (PDX) Catalyst Training (Leadership Training) – August to November 2016
- Orange County Leadership Academy – January to June 2010 (Chapman University)

AWARDS

ASCE Orange County Branch Award for Outstanding Civil Engineer in the Public Sector – February 2016
ASCE Los Angeles Section Award for Outstanding Civil Engineer in the Public Sector – October 2016

PERSONAL

Interests include woodworking, 3D printing, pumpkin carving, table tennis, pool, and snorkeling.

REFERENCES

Available upon request.

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA

December 15, 2020

WHEREAS, the Orange County Flood Control Act Chapter 36 Section 4 requires the Board of Supervisors to employ an engineer to carry out the purpose of said Act;

WHEREAS, appointing the Director of OC Public Works or designee as said engineer will allow for efficient administration of these duties;

WHEREAS, on August 25, 2015, this Board approved Resolution No. 15-090 appointing Khalid Bazmi as the Engineer for the Orange County Flood Control District;

NOW, THEREFORE, BE IT RESOLVED that:

1. Resolution No. 15-090 appointing Khalid Bazmi as the Engineer for the Orange County Flood Control District is retroactively rescinded effective December 4, 2020.
2. The position of the Director of OC Public Works or designee is appointed as the Engineer for the Orange County Flood Control District.

RESOLUTION OF THE BOARD OF SUPERVISORS OF ORANGE COUNTY, CALIFORNIA

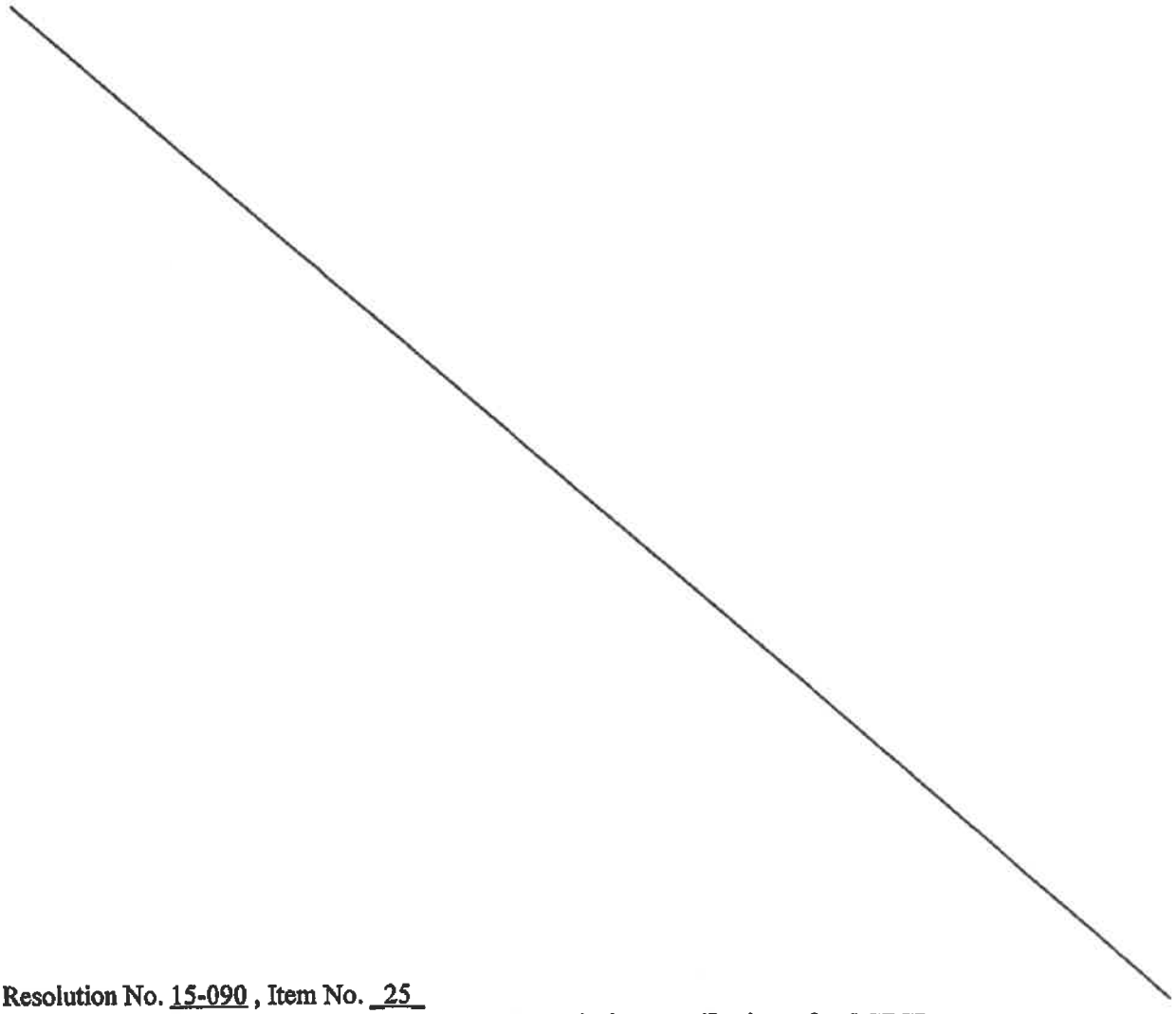
August 25, 2015

WHEREAS, the Orange County Flood Control Act Section 36-4 requires the Board of Supervisors to employ an engineer to carry out the purpose of said Act;

WHEREAS, appointing Khalid Bazmi as said engineer will allow for efficient administration of these duties.

NOW, THEREFORE, BE IT RESOLVED that:

1. Khalid Bazmi is appointed as the engineer for the Orange County Flood Control District.



Resolution No. 15-090 , Item No. 25
BOS and OCFCD Appointing Director of OCPW or designee as Engineer for OCFCD

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors,Acting as the Board of Supervisors and Orange County Flood Control District on August 25, 2015, to wit:

AYES:	Supervisors:	SHAWN NELSON, ANDREW DO, MICHELLE STEEL LISA A. BARTLETT, TODD SPITZER
NOES:	Supervisor(s):	
EXCUSED:	Supervisor(s):	
ABSTAINED:	Supervisor(s):	

CHAIRMAN

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, ROBIN STIELER, Interim Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors, Acting as the Board of Supervisors and Orange County Flood Control District.

IN WITNESS WHEREOF, I have hereto set my hand and seal.

ROBIN STIELER
Interim Clerk of the Board
County of Orange, State of California

Resolution No: 15-090

Agenda Date: 08/25/2015

Item No: 25

I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Acting as the Board of Supervisors and Orange County Flood Control District, Orange County, State of California

Robin Stieler, Interim Clerk of the Board of Supervisors

By. _____
Deputy

County Executive Office

S37M

Memorandum

RECEIVED
2020 DEC 10 PM 2:36
CLERK OF THE BOARD
BOARD OF SUPERVISORS

December 10, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.10 10:48:35 -08'00'

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: Clerk of the Board
Subject: 2021 Recurring Resolutions
Districts: All Districts

Reason for supplemental: The County Executive Office is requesting this Supplemental item be placed on the December 15, 2020, Board agenda in order for the Board of Supervisors to recognize honorary and ceremonial events that may occur starting in early 2021 and maintain compliance with Board Rule 27. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

DocuSign Envelope ID: 35BA0D16-2A88-4965-A0FD-420A333047D1

Agenda Item S37M
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

RECEIVED
2020 DEC 10 PM 2:36
CLERK OF THE
BOARD OF SUPERVISORS

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	Clerk of the Board
DEPARTMENT HEAD REVIEW:	Robin Stieler *Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Robin Stieler (714) 834-2206 Jamie Ross (174) 834-2206

SUBJECT: 2021 Recurring Resolutions

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2020.12.10 10:49:50 -08'00'	Approved Resolution as to Form DocuSigned by: 6026E89386254F6...	Discussion
CEO Signature	*County Counsel Signature*	3 Votes Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A

Staffing Impact: No **# of Positions:** N/A **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years** No

Prior Board Action: 12/17/2019 #9, 12/18/2018 #11, 12/12/2017 #12

RECOMMENDED ACTION(S)

Adopt resolution approving the attached list of recurring Board of Supervisors resolutions for 2021 (Attachment C) and authorizing the Chair or other Supervisor to draft and execute resolutions in the format set forth in Attachment B.

SUMMARY:

The Clerk of the Board requests adoption of the attached list of recurring Board of Supervisors resolutions to maintain compliance with Board Rule 27.

BACKGROUND INFORMATION:

The Office of the Clerk of the Board requests adoption of a resolution approving the attached list of recurring Board of Supervisors (Board) resolutions for the year 2021. With respect to the listed events, the Chair or other District Supervisor(s) are authorized to determine the appropriate date(s), draft a document declaring the event, have the Board resolution signed by all Board members and to present it at an appropriate date. Pursuant to Board Rule 27, if a Board member wishes to make the presentation of a

DocuSign Envelope ID: 35BA0D16-2A88-4965-A0FD-420A333047D1

resolution at a Board meeting, the District Office shall notify the Office of the Chair of such a request and forward a copy of the resolution to the Clerk of the Board. Individual districts or combined districts are to make every effort to present the resolution at an event or meeting within their district to acknowledge or celebrate an individual or event versus presenting them at a Board meeting, unless it is to recognize something of benefit to the entire County. Any resolution presented at a Board meeting should be coordinated with the Chair of the Board. All District Offices are to ensure that the Clerk of the Board receives a copy of all resolutions prior to presentation.

Additions to the list (Attachment C) for 2021 are highlighted.

The Board approved previous recurring resolutions on December 17, 2019, December 18, 2018, and December 12, 2017.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Resolution
Attachment B - Sample Commendation/Proclamation
Attachment C - 2021 Board Resolutions

Attachment A - Resolution

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
December 15, 2020

WHEREAS, it is appropriate to provide an official, cost-effective procedure for the County to issue honorary and ceremonial documents without further Board action;

NOW, THEREFORE, BE IT RESOLVED that with respect to each of the events, organizations and individuals listed in Attachment C, the Chair or other Supervisor is authorized to determine the appropriate date(s) and cause to be drafted a document commending those involved, where appropriate, and proclaiming the events, in the form of Attachment B and to sign that document and obtain the original signatures of the other Board members thereon and to cause the same to be issued on such date as the Chair or other Supervisor determines to be appropriate.

Attachment B – Sample Commendation/Proclamation

COMMENDATION AND PROCLAMATION

_____ (DAY/MONTH/YEAR)

By the authority of the Board of Supervisors, the following resolution is hereby issued:

WHEREAS, ...

WHEREAS, ...

NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Supervisors hereby (commends/recognizes/congratulates) _____ for (its/their) _____ **OR**
hereby (proclaims/declares) __(Month, Day, Year)__ as _____ (Month, Day, Week or Year) in Orange County

_____
Chair, Board of Supervisors

_____ _____
Supervisor *Supervisor*

_____ _____
Supervisor *Supervisor*

2021 RESOLUTIONS

RESOLUTION	Month
Adopt a Shelter Dog Month	October
Adoption Awareness Month, National	November
Adult Day Services Week, National	September
AIDS Awareness Month	October
ALS Awareness Month, National	May
Alzheimer's Awareness Month	September
America Recycles Day	November
American Heart Month	February
American Red Cross Month	March
American Wetlands Month	May
Arab American Month	April
Armenian Genocide Remembrance Day	April
Arson Awareness Week	April
Arts Day, California	October
ARTS Orange County	January
Asian Pacific American Heritage Month	May
Autism Awareness Day	April
Aviation Day, National	August
BIA/OC President	November
Black April Month	April
Black History Month	February
Bleeding Disorders Awareness Month	March
Boy Scouts Day, National	February
Brain Awareness Week	March
Cancer Control Month	April
Carl Garner Federal Lands Cleanup Day	September
Cesar Chavez Day	March
Child Abuse Prevention Month	April
Child Awareness Month	September
Child Health Day	October
Child Support Awareness Month	August
Childhood Cancer Awareness Week/Month	September
Childhood Lead Poisoning Prevention Week	October
Childhood Obesity Prevention & Fitness Week	September
Childhood Obesity Awareness Month	September
Christmas Day	December
Clean Beaches Week, National	June
Columbus Day	October
Community College Month	April
Constitution Day & Citizenship Day	September
Constitution Week	September
Consumer Protection Week, National	March
County Government Month, National	April
Crosswalk Safety Awareness Day/Month	October
Crime Victims' Rights Week, Orange County/National	April
Cure Children's Cancer Month	May
Cyber Security Awareness Month	October
Day of Prayer, National	May
Day of World Freedom Alliance, National	May
Defense Transportation Day, National	May
Denim Day	April
Dia de Los Ninos (Children's Day)	June
Disability Employment Awareness Month, National	October
Domestic Violence Awareness Month	October
Donate Life Month, National	April
Donation Acknowledgements	Various
Drowning Prevention Month	May
Drunk and Drugged Driving Prevention Month, National	December
Education and Sharing Day USA, National	April
Eligibility Professionals Month	August
Emergency Medical Services Week	May
Employee Recognition	Various

2021 RESOLUTIONS

RESOLUTION	Month
Engineers Week, National	February
Environmental Health Week	April
Family Caregivers Month, National	November
Family Day - A Day to Eat Dinner with Your Children	September
Father's Day	June
Financial Planning Week	September
Fire Prevention Week	October
Flag Day	June
Flag Week, National	June
Forest Products Week, National	October
Foster Care Month	May
Freedom Day, National	February
Girl Scout Day, National	March
God Bless America Week	November
Gold Star Mother's Day	September
Grand Jury Awareness Month	November
Grandparents Day, National	September
Harvey Milk Day	May
Health Center Week, National	August
Hispanic Heritage Month	September
Honor America Days	June/July
Human Trafficking Awareness Day, National	January
Hunger Action Month	September
Hunger and Homelessness Awareness Week	November
Independence Day	July
In-Home Supportive Services Provider Recognition Week	November
Irvine Ranch Natural Landmarks Month	October
Italian Heritage Month (Italian Cultural Arts Council)	October
John Wayne Day	May
Juneteenth Day	June
Kobe Bryant Day	August
Korean American Day	January
Korean American Seniors Day	December
Korean Festival of Orange County	October
Korean War Veterans Armistice Day	July
Labor Day	September
Law Day U.S.A.	May
Law Enforcement Appreciation Day, Orange County	August
Lawsuit Abuse Awareness Week	October
Leif Erickson Day	October
Lincoln's Birthday	February
Literacy Day	September
Long-Term Care Residents' Rights Week, National	October
Loyalty Day	May
Lunar New Year	Jan/Feb
Lupus Awareness Month	May
Maritime Day	May
Martin Luther King, Jr. Day	January
Medal of Valor Recipients, Orange County Sheriff	April
Mediation Week/Month	March
Memorial Day	May
Mental Health Month, National	May
Mexican Independence Day	September
Military Family Appreciation Month	November
Month of the Military Child	April
Mother's Day	May
MS Awareness Week	March
Muscular Dystrophy Day	August
Native American Heritage Month	November
New Year's Day	January
Newport Beach Wooden Boat Festival Weekend	June
Nowruz Day, International	March
Nurse Recognition Week	May

2021 RESOLUTIONS

RESOLUTION	Month
Older Americans Month	September
Orange County Innovation Month	October
Orange County Tourism Industry Week	November
Ovarian Cancer Awareness Month	September
Pan American Aviation Day	December
Pancreatic Cancer Awareness Month, National	November
Paralegal Day	June
Parents' Day	July
Patriot Day	September
Peace Officers Memorial Day	May
Pearl Harbor Remembrance Day, National	December
Pet Adoption Day	May
Poison Prevention Week, National	March
Police Week	May
Preparedness Month, National	September
Prescription Drug Take-Back Day	April
Probation Services Week	July
Professional Social Worker Month	March
Project Management Month	September
Prostate Cancer Awareness Month	September
Public Health Week, National	April
Public Safety Telecommunicators Week, National	April
Public Works Week, National	May
Purple Heart Month	November
Pulmonary Hypertension Awareness Month	November
Recognizing/honoring individuals, government agencies, businesses and/or other entities who have contributed to and/or served the Orange County community	Various
Recognizing milestone anniversaries of government agencies and non-profits	Various
Recognizing established and/or nationally accepted observances of National Awareness Days and/or National Awareness Months	Various
Recognizing individuals/entities that have won national or statewide awards	Various
Recognizing Volunteers or nonprofit groups who are participating in Orange County community activities	Various
Recovery Month, National	September
Red Ribbon Week	October
Retiring County Employees	Various
Retiring/Honoring Members of Boards, Commissions & Committees (BCCs) under Board jurisdiction	Various
Retiring/Honoring gov. entities, non-profit organizations serving or doing business wi/ OC or their Members	Various
Ronald Reagan Day	February
Safe Boating Week, National	May
Santiago Creek Week	May
Save Your Vision Week	March
School Choice Week	January
School Lunch Week, National	October
Science and Engineering Week, Orange County	April
Senior Center Month	September
Sexual Assault Awareness Month	April
Sikh Awareness and Appreciation Month	November
Sikh Genocide Remembrance Month	November
Silver Star Service Banner Day	May
Small Business Week	April
Social Work Month	March
Steelmark Month	May
Stephen Foster Memorial Day	January
Suicide Prevention Month, National	September
Surveyors Week, National	March
Teen Dating Violence Awareness Month	February
Thanksgiving Day	November
Thomas Jefferson's Birthday	April
Toastmaster Month	August
Transportation Week, National	May

2021 RESOLUTIONS

RESOLUTION	Month
Tsunami Preparedness Week	March
Veterans Appreciation Week	November
Veterans Day	November
Veterans Day Parade (La Palma)	November
Volunteer Recognition, Orange County	April
Walk to School Day	October
Washington's Birthday	February
Wear Red for Women Day	February
Week of the Young Child	April
White Cane Safety Day	October
Wildfire Awareness Week	May
Women's History Month, National	March
Women's Lung Health Week	May
World AIDS Day	November
World Elder Abuse Awareness Day	June
World No Tobacco Day	May
World TB Day	March
Wright Brothers Day	December
Yellow Ribbon America, Operation Christmas for Our Troops and Their Families	December
Zookeeper Appreciation Week	July

County Executive Office

S37N

Memorandum

December 9, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US
Date: 2020.12.11 08:26:37 -08'00'

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the December 15, 2020, Board Hearing.

Agency: County Executive Office
Subject: Approve Extension of Compensation Relief for COVID-19 Related Absences
Districts: All Districts

Reason for supplemental: The County Executive Office is requesting this Supplemental item be placed on the December 15, 2020, Board agenda in order to continue the administration of compensation relief during absences related to COVID-19 effective January 1, 2021. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

DocuSign Envelope ID: 11C79E94-A683-4C0F-A730-A5985147E5F0

Agenda Item S37N
Clerk's Use Only

SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

MEETING DATE:	12/15/20
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	County Executive Office
DEPARTMENT HEAD REVIEW:	Tom Hatch *Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Tom Hatch (714) 834-2836 Colette Farnes (714) 834-2247

SUBJECT: Approve Extension of Compensation Relief for COVID-19 Related Absences

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
Digitally signed by Frank Kim DN: cn=Frank Kim, o=County of Orange, ou=CEO, email=frank.kim@ocgov.com, c=US Date: 2020.12.11 08:26:05 -08'00'	No legal objection	Discussion
CEO Signature	*Action*	3 Votes Board Majority
	County Counsel Signature	

Budgeted: N/A

Current Year Cost: See Financial Impact Section

Annual Cost: See Financial Impact Section

Staffing Impact: No

# of Positions: N/A

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: See Financial Impact Section

County Audit in last 3 years: No

Prior Board Action: 03/31/2020 #3

RECOMMENDED ACTION(S):

1. Approve and adopt extension of employees' ability to utilize remaining Emergency Paid Sick Leave to provide employees with compensation relief during COVID-19 related absences.

2. Approve and adopt employees' ability to utilize up to 40 additional hours of Emergency Paid Sick Leave, effective January 1, 2021, consistent with the County's Emergency Paid Sick Leave program.

3. Authorize the County Executive Officer, or Designee, to administer continuation of the Emergency Paid Sick Leave program through June 17, 2021, with the discretion to extend the program beyond June 17, 2021 in a manner consistent with the Board of Supervisors-approved parameters.

4. Authorize the County Executive Officer, or Designee, to administer future Families First Coronavirus Response Act leave extensions or statutorily required leave programs in a manner consistent with the parameters approved by the Board of Supervisors on March 31, 2020.

DocuSign Envelope ID: 11C79E94-A683-4C0F-A730-A5985147E5F0

SUMMARY:

Approval and adoption of emergency leave practices will provide employees with compensation relief during COVID-19 related absences.

BACKGROUND INFORMATION:

Since March 2020, the COVID-19 pandemic has continued to disrupt school, business and government operations. On March 13, 2020, the County Executive Office issued a notice that employees who have exhausted all leave balances would be advanced up to 80 hours of Advanced Sick Leave if they needed to stay home to care for a child whose school closed (and could not telework). The ability to utilize Advanced Sick Leave is ongoing.

On March 18, 2020, the President of the United States signed HR 6201 into law, otherwise known as the Families First Coronavirus Response Act (FFCRA), with an effective date of April 1, 2020. This law provided emergency paid sick leave and expanded paid leave under the Family and Medical Leave Act (FMLA) for COVID-19 related absences.

To ensure that the County complied with the FFCRA, on March 31, 2020, your Honorable Board of Supervisors (Board) approved the implementation of the statutorily required leaves as described in the March 31, 2020 Agenda Staff Report including:

Emergency Paid Sick Leave (EPSL)

Eligible Full-Time Regular and Limited-Term employees receive 80 hours of EPSL paid sick leave at their regular rate of pay for any EPSL qualifying leave (e.g., quarantine, to care for a child whose school has closed, etc.).

Extra-Help, Part-Time and other employees, as defined by law, receive an amount of EPSL hours tied to their regular work schedule, as determined by the FFCRA or relevant regulations. Such employees also receive their regular rate of pay for any EPSL qualifying leave.

The Board approved the recommendation that the County would not apply the financial caps provided by the FFCRA for EPSL due to the complexity of administering the caps. Per statutory requirement, any EPSL granted to employees was in addition to any existing leave balances, including Advanced Sick Leave.

The terms and conditions of EPSL are governed by the FFCRA and any relevant regulations.

Health Care Providers and Emergency Responders COVID-19 Leave

Under the FFCRA, employers have the option of excluding health care providers and emergency responders from the benefits of the law. Such employees were excluded from coverage under the FFCRA and were not eligible for EPSL. Upon Board approval, the County granted the additional discretionary sick leave and family leave described in this section to such employees at the discretion of the Department Head. Effective September 19, 2020, California AB 1867 expanded the use of EPSL for health care providers and emergency responders.

All leave protections provided under the FFCRA and California AB 1867 are currently set to expire on December 31, 2020, and the administration of Emergency FMLA as authorized by the Board shall be discontinued unless extended by the Federal Government.

As of December 8, 2020, two other counties in the Southern California Region will be extending the ability for employees to use remaining EPSL balances only. Other counties report that they are waiting for guidance from the Federal Government, and may implement extensions of the ability to use EPSL in the future.

Emergency Leave Recommendations

To ensure that the County maximizes the health and safety of its employees and the public they serve, the following recommendations are before the Board for your consideration:

The County shall extend the ability of eligible Full-Time Regular and Limited-Term employees to utilize remaining balances of EPSL sick leave (up to a maximum of 80 unused hours) at their regular rate of pay for any EPSL qualifying leave (e.g., quarantine, to care for a child whose school has closed, etc.).

The County shall extend the ability of Extra-Help and Part-Time employees to utilize the remaining amount of EPSL hours calculated based on their regular work schedule, at their regular rate of pay for qualifying leave (e.g., quarantine, to care for a child whose school has closed, etc.).

Effective January 1, 2021, eligible employees shall have the ability to use up to a maximum of 40 additional hours of EPSL for Full-Time Regular and Limited-Term employees and prorated for Extra-Help and Part-Time employees calculated based on their regular work schedule and at their regular rate of pay for qualifying leave, under the terms and conditions of the County's Emergency Paid Sick Leave program.

County employees who are health care providers and emergency responders, as those terms are defined by the Department of Labor and any relevant regulations, may be granted the remaining balances of EPSL sick leave at their regular rate of pay, under the terms and conditions that other County employees receive EPSL, except that use of such leave is subject to Department Head approval to ensure that critical health and public safety needs are met. Unless otherwise extended by law, expanded EPSL rights for health care providers and emergency responders under California AB 1867 expire on December 31, 2020.

New employees shall be eligible to use EPSL leave and/or Advanced Sick Leave calculated based on their regular work schedule under the terms and conditions that other County employees receive EPSL and Advanced Sick Leave.

For all employees, the ability to use EPSL is in addition to any existing leave balances, including Advanced Sick Leave. These leave hours have no cash value and unused balances of these hours shall not be paid out upon separation.

The County will continue to encourage telecommuting instead of the use of leave balances for employees with each department determining the feasibility of employee telecommuting while ensuring vital services continue to be provided. Board approval is requested to allow the County Executive Officer the authority to continue this program through June 17, 2021, with the discretion to extend if warranted by the continued impact of the COVID-19 pandemic. Additionally, Board authority is requested to allow the County

DocuSign Envelope ID: 11C79E94-A683-4C0F-A730-A5985147E5F0

Executive Officer discretion to administer future FFCRA leave extensions or other statutorily required leave programs in a manner consistent with the parameters approved for the implementation of the FFCRA.

FINANCIAL IMPACT:

The financial impact is unknown at this time as we cannot forecast the number and classifications of employees who may utilize the benefit. The use of this Emergency Leave time will be paid by each department and will be uniquely identified for tracking purposes.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Response to COVID-19 Related School Closures dated March 13, 2020
Attachment B – HR 6201 (Families First Coronavirus Response Act)
Attachment C – California AB 1867 (Supplemental Paid Sick Leave)

County Executive Office

Memorandum

March 13, 2020

To: Orange County Employees

From: Frank Kim, County Executive Officer

Subject: **Response to COVID-19 Related School Closures**

We understand this may be a difficult time, and in response we are implementing this emergency procedure to aid our County family in dealing with the ever-evolving COVID-19 pandemic.

Effective Monday, March 16, 2020 through March 31, 2020, the following procedure shall apply to employees with children that attend a school closed due to COVID-19, but may not apply to employees essential to public health and safety as determined by each department:

1. Impacted employees may telecommute if doing so is deemed feasible and approved by their supervisor or manager.

2. Impacted employees who are not able to telecommute may use sick leave or elect to use any other leave available to them (e.g., annual leave, comp time, etc.).

3. Impacted employees who have exhausted all leave balances shall be advanced up to 80 hours of sick leave/healthcare leave.

4. Impacted extra help employees may use any accrued sick leave hours and may also be advanced an additional 3 days of sick leave.

5. Impacted employees should follow their department's normal call-in guidelines.

These guidelines may be extended if necessary.

We are monitoring and evaluating the situation and will communicate additional information to employees as developments arise. The Board of Supervisors and the County Executive Office thank you for your continued service, dedication and patience.

H. R. 6201

One Hundred Sixteenth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Friday, the third day of January, two thousand and twenty

An Act

Making emergency supplemental appropriations for the fiscal year ending September 30, 2020, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Families First Coronavirus Response Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

DIVISION A—SECOND CORONAVIRUS PREPAREDNESS AND RESPONSE SUPPLEMENTAL APPROPRIATIONS ACT, 2020

DIVISION B—NUTRITION WAIVERS

DIVISION C—EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

DIVISION D—EMERGENCY UNEMPLOYMENT INSURANCE STABILIZATION AND ACCESS ACT OF 2020

DIVISION E—EMERGENCY PAID SICK LEAVE ACT

DIVISION F—HEALTH PROVISIONS

DIVISION G—TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE

DIVISION H—BUDGETARY EFFECTS

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to "this Act" contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—SECOND CORONAVIRUS PREPAREDNESS AND RESPONSE SUPPLEMENTAL APPROPRIATIONS ACT, 2020

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, and for other purposes, namely:

TITLE I

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For an additional amount for the "Special Supplemental Nutrition Program for Women, Infants, and Children", $500,000,000, to remain available through September 30, 2021: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

COMMODITY ASSISTANCE PROGRAM

For an additional amount for the "Commodity Assistance Program" for the emergency food assistance program as authorized by section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) and section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)), $400,000,000, to remain available through September 30, 2021: *Provided*, That of the funds made available, the Secretary may use up to $100,000,000 for costs associated with the distribution of commodities: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—THIS TITLE

SEC. 1101. (a) PUBLIC HEALTH EMERGENCY.—During fiscal year 2020, in any case in which a school is closed for at least 5 consecutive days during a public health emergency designation during which the school would otherwise be in session, each household containing at least 1 member who is an eligible child attending the school shall be eligible to receive assistance pursuant to a state agency plan approved under subsection (b).

(b) ASSISTANCE.—To carry out this section, the Secretary of Agriculture may approve State agency plans for temporary emergency standards of eligibility and levels of benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) for households with eligible children. Plans approved by the Secretary shall provide for supplemental allotments to households receiving benefits under such Act, and issuances to households not already receiving benefits. Such level of benefits shall be determined by the Secretary in an amount not less than the value of meals at the free rate over the course of 5 school days for each eligible child in the household.

(c) MINIMUM CLOSURE REQUIREMENT.—The Secretary of Agriculture shall not provide assistance under this section in the case of a school that is closed for less than 5 consecutive days.

(d) USE OF EBT SYSTEM.—A State agency may provide assistance under this section through the EBT card system established under section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016).

(e) RELEASE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary of Agriculture may authorize State

educational agencies and school food authorities administering a school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to release to appropriate officials administering the supplemental nutrition assistance program such information as may be necessary to carry out this section.

(f) WAIVERS.—To facilitate implementation of this section, the Secretary of Agriculture may approve waivers of the limits on certification periods otherwise applicable under section 3(f) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(f)), reporting requirements otherwise applicable under section 6(c) of such Act (7 U.S.C. 2015(c)), and other administrative requirements otherwise applicable to State agencies under such Act.

(g) AVAILABILITY OF COMMODITIES.—During fiscal year 2020, the Secretary of Agriculture may purchase commodities for emergency distribution in any area of the United States during a public health emergency designation.

(h) DEFINITIONS.—In this section:

(1) The term "eligible child" means a child (as defined in section 12(d) or served under section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d), 1759(a)(1)) who, if not for the closure of the school attended by the child during a public health emergency designation and due to concerns about a COVID–19 outbreak, would receive free or reduced price school meals under the Richard B. Russell National School Lunch Act (42 U.S.C. 175l et seq.) at the school.

(2) The term "public health emergency designation" means the declaration of a public health emergency, based on an outbreak of SARS–CoV–2 or another coronavirus with pandemic potential, by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d).

(3) The term "school" has the meaning given the term in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)).

(i) FUNDING.—There are hereby appropriated to the Secretary of Agriculture such amounts as are necessary to carry out this section: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 1102. In addition to amounts otherwise made available, $100,000,000, to remain available through September 30, 2021, shall be available for the Secretary of Agriculture to provide grants to the Commonwealth of the Northern Mariana Islands, Puerto Rico, and American Samoa for nutrition assistance in response to a COVID–19 public health emergency: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE II

DEPARTMENT OF DEFENSE

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $82,000,000, to remain available until September 30, 2022, for health services consisting of SARS–CoV–2 or COVID–19 related items and services as described in section 6006(a) of division F of the Families First Coronavirus Response Act (or the administration of such products): *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE III

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TAXPAYER SERVICES

For an additional amount for "Taxpayer Services", $15,000,000, to remain available until September 30, 2022, for the purposes of carrying out the Families First Coronavirus Response Act: *Provided*, That amounts provided under this heading in this Act may be transferred to and merged with "Operations Support": *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE IV

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For an additional amount for "Indian Health Services", $64,000,000, to remain available until September 30, 2022, for health services consisting of SARS–CoV–2 or COVID–19 related items and services as described in section 6007 of division F of the Families First Coronavirus Response Act (or the administration of such products): *Provided*, That such amounts shall be allocated at the discretion of the Director of the Indian Health Service: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE V

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR COMMUNITY LIVING

AGING AND DISABILITY SERVICES PROGRAMS

For an additional amount for "Aging and Disability Services Programs", $250,000,000, to remain available until September 30, 2021, for activities authorized under subparts 1 and 2 of part C, of title III, and under title VI, of the Older Americans Act of 1965 ("OAA"), of which $160,000,000 shall be for Home-Delivered Nutrition Services, $80,000,000 shall be for Congregate Nutrition Services, and $10,000,000 shall be for Nutrition Services for Native Americans: *Provided*, That State matching requirements under sections 304(d)(1)(D) and 309(b)(2) of the OAA shall not apply to funds made available under this heading in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for "Public Health and Social Services Emergency Fund", $1,000,000,000, to remain available until expended, for activities authorized under section 2812 of the Public Health Service Act (42 U.S.C. 300hh–11), in coordination with the Assistant Secretary for Preparedness and Response and the Administrator of the Centers for Medicare & Medicaid Services, to pay the claims of providers for reimbursement, as described in subsection (a)(3)(D) of such section 2812, for health services consisting of SARS–CoV–2 or COVID–19 related items and services as described in paragraph (1) of section 6001(a) of division F of the Families First Coronavirus Response Act (or the administration of such products) or visits described in paragraph (2) of such section for uninsured individuals: *Provided*, That the term "uninsured individual" in this paragraph means an individual who is not enrolled in—

(1) a Federal health care program (as defined under section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f)), including an individual who is eligible for medical assistance only because of subsection (a)(10)(A)(ii)(XXIII) of Section 1902 of the Social Security Act; or

(2) a group health plan or health insurance coverage offered by a health insurance issuer in the group or individual market (as such terms are defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91)), or a health plan offered under chapter 89 of title 5, United States Code:

Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE VI

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for "Medical Services", $30,000,000, to remain available until September 30, 2022, for health services consisting of SARS–CoV–2 or COVID–19 related items and services as described in section 6006(b) of division F of the Families First Coronavirus Response Act (or the administration of such products): *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MEDICAL COMMUNITY CARE

For an additional amount for "Medical Community Care", $30,000,000, to remain available until September 30, 2022, for health services consisting of SARS–CoV–2 or COVID–19 related items and services as described in section 6006(b) of division F of the Families First Coronavirus Response Act (or the administration of such products): *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE VII

GENERAL PROVISIONS—THIS ACT

SEC. 1701. Not later than 30 days after the date of enactment of this Act, the head of each executive agency that receives funding in this Act shall provide a report detailing the anticipated uses of all such funding to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That each report shall include estimated personnel and administrative costs, as well as the total amount of funding apportioned, allotted, obligated, and expended, to date: *Provided further*, That each such plan shall be updated and submitted to such Committees every 60 days until all funds are expended or expire.

SEC. 1702. States and local governments receiving funds or assistance pursuant to this division shall ensure the respective State Emergency Operations Center receives regular and real-time reporting on aggregated data on testing and results from State and local public health departments, as determined by the Director of the Centers for Disease Control and Prevention, and that such data is transmitted to the Centers for Disease Control and Prevention.

SEC. 1703. Each amount appropriated or made available by this Act is in addition to amounts otherwise appropriated for the fiscal year involved.

SEC. 1704. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 1705. Unless otherwise provided for by this Act, the additional amounts appropriated by this Act to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for fiscal year 2020.

SEC. 1706. Each amount designated in this Act by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be available (or rescinded or transferred, if applicable) only if the President subsequently so designates all such amounts and transmits such designations to the Congress.

SEC. 1707. Any amount appropriated by this Act, designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 and subsequently so designated by the President, and transferred pursuant to transfer authorities provided by this Act shall retain such designation.

This division may be cited as the "Second Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020".

DIVISION B—NUTRITION WAIVERS

TITLE I—MAINTAINING ESSENTIAL ACCESS TO LUNCH FOR STUDENTS ACT

SEC. 2101. SHORT TITLE.

This title may be cited as the "Maintaining Essential Access to Lunch for Students Act" or the "MEALS Act".

SEC. 2102. WAIVER EXCEPTION FOR SCHOOL CLOSURES DUE TO COVID–19.

(a) IN GENERAL.—The requirements under section 12(l)(1)(A)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)(1)(A)(iii)) shall not apply to a qualified COVID–19 waiver.

(b) ALLOWABLE INCREASE IN FEDERAL COSTS.—Notwithstanding paragraph (4) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)), the Secretary of Agriculture may grant a qualified COVID–19 waiver that increases Federal costs.

(c) TERMINATION AFTER PERIODIC REVIEW.—The requirements under section 12(l)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)(5)) shall not apply to a qualified COVID–19 waiver.

(d) QUALIFIED COVID–19 WAIVER.—In this section, the term "qualified COVID–19 waiver" means a waiver—

(1) requested by a State (as defined in section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8))) or eligible service provider under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)); and

(2) to waive any requirement under such Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either such Act, for purposes of providing meals and meal supplements under such Acts during a school closure due to COVID–19.

TITLE II—COVID—19 CHILD NUTRITION RESPONSE ACT

SEC. 2201. SHORT TITLE.

This title may be cited as the "COVID–19 Child Nutrition Response Act".

SEC. 2202. NATIONAL SCHOOL LUNCH PROGRAM REQUIREMENT WAIVERS ADDRESSING COVID–19.

(a) NATIONWIDE WAIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may establish a waiver for all States under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)), for purposes of—

(A) providing meals and meal supplements under a qualified program; and

(B) carrying out subparagraph (A) with appropriate safety measures with respect to COVID–19, as determined by the Secretary.

(2) STATE ELECTION.—A waiver established under paragraph (1) shall—

(A) notwithstanding paragraph (2) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)), apply automatically to any State that elects to be subject to the waiver without further application; and

(B) not be subject to the requirements under paragraph (3) of such section.

(b) CHILD AND ADULT CARE FOOD PROGRAM WAIVER.—Notwithstanding any other provision of law, the Secretary may grant a waiver under section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) to allow non-congregate feeding under a child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) if such waiver is for the purposes of—

(1) providing meals and meal supplements under such child and adult care food program; and

(2) carrying out paragraph (1) with appropriate safety measures with respect to COVID–19, as determined by the Secretary.

(c) MEAL PATTERN WAIVER.—Notwithstanding paragraph (4)(A) of section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) the Secretary may grant a waiver under such section that relates to the nutritional content of meals served if the Secretary determines that—

(1) such waiver is necessary to provide meals and meal supplements under a qualified program; and

(2) there is a supply chain disruption with respect to foods served under such a qualified program and such disruption is due to COVID–19.

(d) REPORTS.—Each State that receives a waiver under subsection (a), (b), or (c), shall, not later than 1 year after the date such State received such waiver, submit a report to the Secretary that includes the following:

(1) A summary of the use of such waiver by the State and eligible service providers.

(2) A description of whether such waiver resulted in improved services to children.

(e) SUNSET.—The authority of the Secretary to establish or grant a waiver under this section shall expire on September 30, 2020.

(f) DEFINITIONS.—In this section:

(1) QUALIFIED PROGRAM.—The term "qualified program" means the following:

(A) The school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) The school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(C) The child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766).

(D) The summer food service program for children under section 13 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761).

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(3) STATE.—The term "State" has the meaning given such term in section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8)).

SEC. 2203. PHYSICAL PRESENCE WAIVER UNDER WIC DURING CERTAIN PUBLIC HEALTH EMERGENCIES.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may grant a request described in paragraph (2) to—

(A) waive the requirement under section 17(d)(3)(C)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)(C)(i)); and

(B) defer anthropometric and bloodwork requirements necessary to determine nutritional risk.

(2) REQUEST.—A request described in this paragraph is a request made to the Secretary by a State agency to waive, on behalf of the local agencies served by such State agency, the requirements described in paragraph (1) during any portion of the emergency period (as defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b-5(g)) (beginning on or after the date of the enactment of this section).

(b) REPORTS.—

(1) LOCAL AGENCY REPORTS.—Each local agency that uses a waiver pursuant to subsection (a) shall, not later than 1 year after the date such local agency uses such waiver, submit a report to the State agency serving such local agency that includes the following:

(A) A summary of the use of such waiver by the local agency.

(B) A description of whether such waiver resulted in improved services to women, infants, and children.

(2) STATE AGENCY REPORTS.—Each State agency that receives a waiver under subsection (a) shall, not later than 18 months after the date such State agency received such

waiver, submit a report to the Secretary that includes the following:

(A) A summary of the reports received by the State agency under paragraph (1).

(B) A description of whether such waiver resulted in improved services to women, infants, and children.

(c) SUNSET.—The authority under this section shall expire on September 30, 2020.

(d) DEFINITIONS.—In this section:

(1) LOCAL AGENCY.—The term "local agency" has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

(2) NUTRITIONAL RISK.—The term "nutritional risk" has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) STATE AGENCY.— The term "State agency" has the meaning given the term in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

SEC. 2204. ADMINISTRATIVE REQUIREMENTS WAIVER UNDER WIC.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture may, if requested by a State agency (as defined in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), modify or waive any qualified administrative requirement with respect to such State agency.

(2) QUALIFIED ADMINISTRATIVE REQUIREMENT.—In this section, the term "qualified administrative requirement" means a regulatory requirement issued under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) that the Secretary of Agriculture determines—

(A) cannot be met by a State agency due to COVID–19; and

(B) the modification or waiver of which is necessary to provide assistance under such section.

(b) STATE AGENCY REPORTS.—Each State agency that receives a waiver under subsection (a)(1) shall, not later than 1 year after the date such State agency received such waiver, submit a report to the Secretary of Agriculture that includes the following:

(1) A summary of the use of such waiver by the State agency.

(2) A description of whether such waiver resulted in improved services to women, infants, and children.

(c) SUNSET.—The authority under this section shall expire on September 30, 2020.

TITLE III—SNAP WAIVERS

SEC. 2301. SNAP FLEXIBILITY FOR LOW-INCOME JOBLESS WORKERS.

(a) Beginning with the first month that begins after the enactment of this Act and for each subsequent month through the end of the month subsequent to the month a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak

of coronavirus disease 2019 (COVID–19) is lifted, eligibility for supplemental nutrition assistance program benefits shall not be limited under section 6(o)(2) of the Food and Nutrition Act of 2008 unless an individual does not comply with the requirements of a program offered by the State agency (as defined in section 3 of the Food and Nutrition Act of 2008) that meets the standards of subparagraphs (B) or (C) of such section 6(o)(2).

(b) Beginning on the month subsequent to the month the public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of COVID–19 is lifted for purposes of section 6(o) of the Food and Nutrition Act of 2008, such State agency shall disregard any period during which an individual received benefits under the supplemental nutrition assistance program prior to such month.

SEC. 2302. ADDITIONAL SNAP FLEXIBILITIES IN A PUBLIC HEALTH EMERGENCY.

(a) In the event of a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID–19) and the issuance of an emergency or disaster declaration by a State based on an outbreak of COVID–19, the Secretary of Agriculture—

(1) shall provide, at the request of a State agency (as defined in section 3 of the Food and Nutrition Act of 2008) that provides sufficient data (as determined by the Secretary through guidance) supporting such request, for emergency allotments to households participating in the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 to address temporary food needs not greater than the applicable maximum monthly allotment for the household size; and

(2) may adjust, at the request of State agencies or by guidance in consultation with one or more State agencies, issuance methods and application and reporting requirements under the Food and Nutrition Act of 2008 to be consistent with what is practicable under actual conditions in affected areas. (In making this adjustment, the Secretary shall consider the availability of offices and personnel in State agencies, any conditions that make reliance on electronic benefit transfer systems described in section 7(h) of the Food and Nutrition Act of 2008 impracticable, any disruptions of transportation and communication facilities, and any health considerations that warrant alternative approaches.)

(b) Not later than 10 days after the date of the receipt or issuance of each document listed in paragraphs (1), (2), or (3) of this subsection, the Secretary of Agriculture shall make publicly available on the website of the Department the following documents:

(1) Any request submitted by State agencies under subsection (a).

(2) The Secretary's approval or denial of each such request.

(3) Any guidance issued under subsection (a)(2).

(c) The Secretary of Agriculture shall, within 18 months after the public health emergency declaration described in subsection (a) is lifted, submit a report to the House and Senate Agriculture Committees with a description of the measures taken to address

the food security needs of affected populations during the emergency, any information or data supporting State agency requests, any additional measures that States requested that were not approved, and recommendations for changes to the Secretary's authority under the Food and Nutrition Act of 2008 to assist the Secretary and States and localities in preparations for any future health emergencies.

DIVISION C—EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

SEC. 3101. SHORT TITLE.

This Act may be cited as "Emergency Family and Medical Leave Expansion Act".

SEC. 3102. AMENDMENTS TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) PUBLIC HEALTH EMERGENCY LEAVE.—

(1) IN GENERAL.—Section 102(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)(1)) is amended by adding at the end the following:

"(F) During the period beginning on the date the Emergency Family and Medical Leave Expansion Act takes effect, and ending on December 31, 2020, because of a qualifying need related to a public health emergency in accordance with section 110.".

(2) PAID LEAVE REQUIREMENT.—Section 102(c) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(c)) is amended by striking "under subsection (a)" and inserting "under subsection (a) (other than certain periods of leave under subsection (a)(1)(F))".

(b) REQUIREMENTS.—Title I of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.) is amended by adding at the end the following:

"SEC. 110. PUBLIC HEALTH EMERGENCY LEAVE.

"(a) DEFINITIONS.—The following shall apply with respect to leave under section 102(a)(1)(F):

"(1) APPLICATION OF CERTAIN TERMS.—The definitions in section 101 shall apply, except as follows:

"(A) ELIGIBLE EMPLOYEE.—In lieu of the definition in sections 101(2)(A) and 101(2)(B)(ii), the term 'eligible employee' means an employee who has been employed for at least 30 calendar days by the employer with respect to whom leave is requested under section 102(a)(1)(F).

"(B) EMPLOYER THRESHOLD.—Section 101(4)(A)(i) shall be applied by substituting 'fewer than 500 employees' for '50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year'.

"(2) ADDITIONAL DEFINITIONS.—In addition to the definitions described in paragraph (1), the following definitions shall apply with respect to leave under section 102(a)(1)(F):

"(A) QUALIFYING NEED RELATED TO A PUBLIC HEALTH EMERGENCY.—The term 'qualifying need related to a public health emergency', with respect to leave, means the

employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.

"(B) PUBLIC HEALTH EMERGENCY.—The term 'public health emergency' means an emergency with respect to COVID–19 declared by a Federal, State, or local authority.

"(C) CHILD CARE PROVIDER.—The term 'child care provider' means a provider who receives compensation for providing child care services on a regular basis, including an 'eligible child care provider' (as defined in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n)).

"(D) SCHOOL.—The term 'school' means an 'elementary school' or 'secondary school' as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(3) REGULATORY AUTHORITIES.—The Secretary of Labor shall have the authority to issue regulations for good cause under sections 553(b)(B) and 553(d)(A) of title 5, United States Code—

"(A) to exclude certain health care providers and emergency responders from the definition of eligible employee under section 110(a)(1)(A); and

"(B) to exempt small businesses with fewer than 50 employees from the requirements of section 102(a)(1)(F) when the imposition of such requirements would jeopardize the viability of the business as a going concern.

"(b) RELATIONSHIP TO PAID LEAVE.—

"(1) UNPAID LEAVE FOR INITIAL 10 DAYS.—

"(A) IN GENERAL.—The first 10 days for which an employee takes leave under section 102(a)(1)(F) may consist of unpaid leave.

"(B) EMPLOYEE ELECTION.—An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave under section 102(a)(1)(F) in accordance with section 102(d)(2)(B).

"(2) PAID LEAVE FOR SUBSEQUENT DAYS.—

"(A) IN GENERAL.—An employer shall provide paid leave for each day of leave under section 102(a)(1)(F) that an employee takes after taking leave under such section for 10 days.

"(B) CALCULATION.—

"(i) IN GENERAL.—Subject to clause (ii), paid leave under subparagraph (A) for an employee shall be calculated based on—

"(I) an amount that is not less than two-thirds of an employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)); and

"(II) the number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under subparagraph (C)).

"(ii) CLARIFICATION.—In no event shall such paid leave exceed $200 per day and $10,000 in the aggregate.

"(C) VARYING SCHEDULE HOURS CALCULATION.—In the case of an employee whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken leave under section 102(a)(1)(F), the employer shall use the following in place of such number:

"(i) Subject to clause (ii), a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type.

"(ii) If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

"(c) NOTICE.—In any case where the necessity for leave under section 102(a)(1)(F) for the purpose described in subsection (a)(2)(A)(iii) is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.

"(d) RESTORATION TO POSITION.—

"(1) IN GENERAL.—Section 104(a)(1) shall not apply with respect to an employee of an employer who employs fewer than 25 employees if the conditions described in paragraph (2) are met.

"(2) CONDITIONS.—The conditions described in this paragraph are the following:

"(A) The employee takes leave under section 102(a)(1)(F).

"(B) The position held by the employee when the leave commenced does not exist due to economic conditions or other changes in operating conditions of the employer—

"(i) that affect employment; and

"(ii) are caused by a public health emergency during the period of leave.

"(C) The employer makes reasonable efforts to restore the employee to a position equivalent to the position the employee held when the leave commenced, with equivalent employment benefits, pay, and other terms and conditions of employment.

"(D) If the reasonable efforts of the employer under subparagraph (C) fail, the employer makes reasonable efforts during the period described in paragraph (3) to contact the employee if an equivalent position described in subparagraph (C) becomes available.

"(3) CONTACT PERIOD.—The period described under this paragraph is the 1-year period beginning on the earlier of—

"(A) the date on which the qualifying need related to a public health emergency concludes; or

"(B) the date that is 12 weeks after the date on which the employee's leave under section 102(a)(1)(F) commences.".

SEC. 3103. EMPLOYMENT UNDER MULTI-EMPLOYER BARGAINING AGREEMENTS.

(a) EMPLOYERS.—An employer signatory to a multiemployer collective bargaining agreement may, consistent with its bargaining obligations and its collective bargaining agreement, fulfill its obligations under section 110(b)(2) of title I of the Family and Medical Leave Act of 1993, as added by the Families First Coronavirus Response Act, by making contributions to a multiemployer fund, plan, or program based on the paid leave each of its employees is entitled to under such section while working under the multiemployer collective bargaining agreement, provided that the fund, plan, or program enables employees to secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement for paid leave taken under section 102(a)(1)(F) of title I of the Family and Medical Leave Act of 1993, as added by the Families First Coronavirus Response Act.

(b) EMPLOYEES.—Employees who work under a multiemployer collective bargaining agreement into which their employers make contributions as provided in subsection (a) may secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement for paid leave taken under section 102(a)(1)(F) of title I of the Family and Medical Leave Act of 1993, as added by the Families First Coronavirus Response Act.

SEC. 3104. SPECIAL RULE FOR CERTAIN EMPLOYERS.

An employer under 110(a)(B) shall not be subject to section 107(a) for a violation of section 102(a)(1)(F) if the employer does not meet the definition of employer set forth in Section 101(4)(A)(i).

SEC. 3105. SPECIAL RULE FOR HEALTH CARE PROVIDERS AND EMERGENCY RESPONDERS.

An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of the provisions in the amendments made under of section 3102 of this Act.

SEC. 3106. EFFECTIVE DATE.

This Act shall take effect not later than 15 days after the date of enactment of this Act.

DIVISION D—EMERGENCY UNEMPLOYMENT INSURANCE STABILIZATION AND ACCESS ACT OF 2020

SEC. 4101. SHORT TITLE.

This division may be cited as the "Emergency Unemployment Insurance Stabilization and Access Act of 2020".

SEC. 4102. EMERGENCY TRANSFERS FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION.

(a) IN GENERAL.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

"Emergency Transfers in Fiscal Year 2020 for Administration

"(h)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of emergency administration grants in fiscal year 2020 to the accounts of the States in the Unemployment Trust Fund, in accordance with succeeding provisions of this subsection.

"(B) The amount of an emergency administration grant with respect to a State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying $1,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2019, under the provisions of subsection (a).

"(C) Of the emergency administration grant determined under subparagraph (B) with respect to a State—

"(i) not later than 60 days after the date of enactment of this subsection, 50 percent shall be transferred to the account of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (2); and

"(ii) only with respect to a State in which the number of unemployment compensation claims has increased by at least 10 percent over the same quarter in the previous calendar year, the remainder shall be transferred to the account of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (3).

"(2) The requirements of this paragraph with respect to a State are the following:

"(A) The State requires employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment. Such notification may be based on model notification language issued by the Secretary of Labor.

"(B) The State ensures that applications for unemployment compensation, and assistance with the application process, are accessible in at least two of the following: in-person, by phone, or online.

"(C) The State notifies applicants when an application is received and is being processed, and in any case in which an application is unable to be processed, provides information about steps the applicant can take to ensure the successful processing of the application.

"(3) The requirements of this paragraph with respect to a State are the following:

"(A) The State has expressed its commitment to maintain and strengthen access to the unemployment compensation system, including through initial and continued claims.

"(B) The State has demonstrated steps it has taken or will take to ease eligibility requirements and access to unemployment compensation for claimants, including waiving work search requirements and the waiting week, and non-charging employers directly impacted by COVID–19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

"(4) Any amount transferred to the account of a State under this subsection may be used by such State only for the administration of its unemployment compensation law, including by taking such steps as may be necessary to ensure adequate resources in periods of high demand.

"(5) Not later than 1 year after the date of enactment of the Emergency Unemployment Insurance Stabilization and Access Act of 2020, each State receiving emergency administration grant funding under paragraph (1)(C)(i) shall submit to the Secretary of Labor, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a report that includes—

"(A) an analysis of the recipiency rate for unemployment compensation in the State as such rate has changed over time;

"(B) a description of steps the State intends to take to increase such recipiency rate.

"(6)(A) Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as the Secretary of Labor estimates to be necessary for purposes of making the transfers described in paragraph (1)(C).

"(B) There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.".

(b) EMERGENCY FLEXIBILITY.—Notwithstanding any other law, if a State modifies its unemployment compensation law and policies with respect to work search, waiting week, good cause, or employer experience rating on an emergency temporary basis as needed to respond to the spread of COVID–19, such modifications shall be disregarded for the purposes of applying section 303 of the Social Security Act and section 3304 of the Internal Revenue Code of 1986 to such State law.

(c) REGULATIONS.—The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a).

SEC. 4103. TEMPORARY ASSISTANCE FOR STATES WITH ADVANCES.

Section 1202(b)(10)(A) of the Social Security Act (42 U.S.C. 1322(b)(10)(A)) is amended by striking "beginning on the date of enactment of this paragraph and ending on December 31, 2010" and inserting "beginning on the date of enactment of the Emergency Unemployment Insurance Stabilization and Access Act of 2020 and ending on December 31, 2020".

SEC. 4104. TECHNICAL ASSISTANCE AND GUIDANCE FOR SHORT-TIME COMPENSATION PROGRAMS.

The Secretary of Labor shall assist States in establishing, implementing, and improving the employer awareness of short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986) to help avert layoffs, including by providing technical assistance and guidance.

SEC. 4105. FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.

(a) IN GENERAL.—In the case of sharable extended compensation and sharable regular compensation paid for weeks of unemployment beginning after the date of the enactment of this section and before December 31, 2020 (and only with respect to States that receive emergency administration grant funding under clauses (i) and (ii) of section 903(h)(1)(C) of the Social Security Act (42 U.S.C. 1102(h)(1)(C))), section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall be applied by substituting "100 percent of" for "one-half of".

(b) TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.—With respect to weeks of unemployment beginning after the date of the enactment of this Act and ending on or before December 31, 2020, subparagraph (B) of section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall not apply.

(c) DEFINITIONS.—For purposes of this section—

(1) the terms "sharable extended compensation" and "sharable regular compensation" have the respective meanings given such terms under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) the term "week" has the meaning given such term under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(d) REGULATIONS.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section.

DIVISION E—EMERGENCY PAID SICK LEAVE ACT

SEC. 5101. SHORT TITLE.

This Act may be cited as the "Emergency Paid Sick Leave Act".

SEC. 5102. PAID SICK TIME REQUIREMENT.

(a) IN GENERAL.—An employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because:

(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID–19.

(2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19.

(3) The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis.

(4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).

(5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter

has been closed, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions.

(6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Except that an employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this subsection.

(b) DURATION OF PAID SICK TIME.—

(1) IN GENERAL.—An employee shall be entitled to paid sick time for an amount of hours determined under paragraph (2).

(2) AMOUNT OF HOURS.—The amount of hours of paid sick time to which an employee is entitled shall be as follows:

(A) For full-time employees, 80 hours.

(B) For part-time employees, a number of hours equal to the number of hours that such employee works, on average, over a 2-week period.

(3) CARRYOVER.—Paid sick time under this section shall not carry over from 1 year to the next.

(c) EMPLOYER'S TERMINATION OF PAID SICK TIME.—Paid sick time provided to an employee under this Act shall cease beginning with the employee's next scheduled workshift immediately following the termination of the need for paid sick time under subsection (a).

(d) PROHIBITION.—An employer may not require, as a condition of providing paid sick time under this Act, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid sick time.

(e) USE OF PAID SICK TIME.—

(1) IN GENERAL.—The paid sick time under subsection (a) shall be available for immediate use by the employee for the purposes described in such subsection, regardless of how long the employee has been employed by an employer.

(2) SEQUENCING.—

(A) IN GENERAL.—An employee may first use the paid sick time under subsection (a) for the purposes described in such subsection.

(B) PROHIBITION.—An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the paid sick time under subsection (a).

SEC. 5103. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Secretary of Labor, of the requirements described in this Act.

(b) MODEL NOTICE.—Not later than 7 days after the date of enactment of this Act, the Secretary of Labor shall make publicly available a model of a notice that meets the requirements of subsection (a).

SEC. 5104. PROHIBITED ACTS.

It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who—

(1) takes leave in accordance with this Act; and

(2) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act (including a proceeding that seeks enforcement of this Act), or has testified or is about to testify in any such proceeding.

SEC. 5105. ENFORCEMENT.

(a) UNPAID SICK LEAVE.—An employer who violates section 5102 shall—

(1) be considered to have failed to pay minimum wages in violation of section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206); and

(2) be subject to the penalties described in sections 16 and 17 of such Act (29 U.S.C. 216; 217) with respect to such violation.

(b) UNLAWFUL TERMINATION.—An employer who willfully violates section 5104 shall—

(1) be considered to be in violation of section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)); and

(2) be subject to the penalties described in sections 16 and 17 of such Act (29 U.S.C. 216; 217) with respect to such violation.

SEC. 5106. EMPLOYMENT UNDER MULTI-EMPLOYER BARGAINING AGREEMENTS.

(a) EMPLOYERS.—An employer signatory to a multiemployer collective bargaining agreement may, consistent with its bargaining obligations and its collective bargaining agreement, fulfill its obligations under this Act by making contributions to a multiemployer fund, plan, or program based on the hours of paid sick time each of its employees is entitled to under this Act while working under the multiemployer collective bargaining agreement, provided that the fund, plan, or program enables employees to secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement and for the uses specified under section 5102(a).

(b) EMPLOYEES.—Employees who work under a multiemployer collective bargaining agreement into which their employers make contributions as provided in subsection (a) may secure pay from such fund, plan, or program based on hours they have worked under the multiemployer collective bargaining agreement for the uses specified in section 5102(a).

SEC. 5107. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed—

(1) to in any way diminish the rights or benefits that an employee is entitled to under any—

(A) other Federal, State, or local law;

(B) collective bargaining agreement; or

(C) existing employer policy; or

(2) to require financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for paid sick time under this Act that has not been used by such employee.

SEC. 5108. EFFECTIVE DATE.

This Act, and the requirements under this Act, shall take effect not later than 15 days after the date of enactment of this Act.

SEC. 5109. SUNSET.

This Act, and the requirements under this Act, shall expire on December 31, 2020.

SEC. 5110. DEFINITIONS.

For purposes of the Act:

(1) EMPLOYEE.—The terms "employee" means an individual who is—

(A)(i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E) or (F), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (5)(A); or

(ii) an employee of the Government Accountability Office;

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), other than an applicant for employment;

(D) a covered employee, as defined in section 411(c) of title 3, United States Code;

(E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code; or

(F) any other individual occupying a position in the civil service (as that term is defined in section 2101(1) of title 5, United States Code).

(2) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person who is—

(i)(I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);

(II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(IV) an employing office, as defined in section 411(c) of title 3, United States Code; or

(V) an Executive Agency as defined in section 105 of title 5, United States Code, and including the U.S. Postal Service and the Postal Regulatory Commission; and

(ii) engaged in commerce (including government), or an industry or activity affecting commerce (including government), as defined in subparagraph (B)(iii).

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term "covered employer"—

(I) means any person engaged in commerce or in any industry or activity affecting commerce that—

(aa) in the case of a private entity or individual, employs fewer than 500 employees; and

(bb) in the case of a public agency or any other entity that is not a private entity or individual, employs 1 or more employees;

(II) includes—

(aa) includes any person acting directly or indirectly in the interest of an employer in relation to an employee (within the meaning of such phrase in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)); and

(bb) any successor in interest of an employer;

(III) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(IV) includes the Government Accountability Office and the Library of Congress.

(ii) PUBLIC AGENCY.—For purposes of clause (i)(IV), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(iii) DEFINITIONS.—For purposes of this subparagraph:

(I) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act of 1947 (29 U.S.C. 142 (1) and (3)).

(II) EMPLOYEE.—The term "employee" has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(III) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(3) FLSA TERMS.—The terms "employ" and "State" have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(4) FMLA TERMS.—The terms "health care provider" and "son or daughter" have the meanings given such terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(5) PAID SICK TIME.—

(A) IN GENERAL.—The term "paid sick time" means an increment of compensated leave that—

(i) is provided by an employer for use during an absence from employment for a reason described in any paragraph of section 2(a); and

(ii) is calculated based on the employee's required compensation under subparagraph (B) and the number of hours the employee would otherwise be normally scheduled to work (or the number of hours calculated under subparagraph (C)), except that in no event shall such paid sick time exceed—

(I) $511 per day and $5,110 in the aggregate for a use described in paragraph (1), (2), or (3) of section 5102(a); and

(II) $200 per day and $2,000 in the aggregate for a use described in paragraph (4), (5), or (6) of section 5102(a).

(B) REQUIRED COMPENSATION.—

(i) IN GENERAL.—Subject to subparagraph (A)(ii), the employee's required compensation under this subparagraph shall be not less than the greater of the following:

(I) The employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)).

(II) The minimum wage rate in effect under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(III) The minimum wage rate in effect for such employee in the applicable State or locality, whichever is greater, in which the employee is employed.

(ii) SPECIAL RULE FOR CARE OF FAMILY MEMBERS.—Subject to subparagraph (A)(ii), with respect to any paid sick time provided for any use described in paragraph (4), (5), or (6) of section 5102(a), the employee's required compensation under this subparagraph shall be two-thirds of the amount described in clause (B)(i).

(C) VARYING SCHEDULE HOURS CALCULATION.—In the case of a part-time employee described in section 5102(b)(2)(B) whose schedule varies from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken paid sick time under section 2(a), the employer shall use the following in place of such number:

(i) Subject to clause (ii), a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes the paid sick time, including hours for which the employee took leave of any type.

(ii) If the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

(D) GUIDELINES.—Not later than 15 days after the date of the enactment of this Act, the Secretary of Labor

shall issue guidelines to assist employers in calculating the amount of paid sick time under subparagraph (A).

(E) REASONABLE NOTICE.—After the first workday (or portion thereof) an employee receives paid sick time under this Act, an employer may require the employee to follow reasonable notice procedures in order to continue receiving such paid sick time.

SEC. 5111. REGULATORY AUTHORITIES.

The Secretary of Labor shall have the authority to issue regulations for good cause under sections 553(b)(B) and 553(d)(A) of title 5, United States Code—

(1) to exclude certain health care providers and emergency responders from the definition of employee under section 5110(1) including by allowing the employer of such health care providers and emergency responders to opt out;

(2) to exempt small businesses with fewer than 50 employees from the requirements of section 5102(a)(5) when the imposition of such requirements would jeopardize the viability of the business as a going concern; and

(3) as necessary, to carry out the purposes of this Act, including to ensure consistency between this Act and Division C and Division G of the Families First Coronavirus Response Act.

DIVISION F—HEALTH PROVISIONS

SEC. 6001. COVERAGE OF TESTING FOR COVID–19.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering group or individual health insurance coverage (including a grandfathered health plan (as defined in section 1251(e) of the Patient Protection and Affordable Care Act)) shall provide coverage, and shall not impose any cost sharing (including deductibles, copayments, and coinsurance) requirements or prior authorization or other medical management requirements, for the following items and services furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act:

(1) In vitro diagnostic products (as defined in section 809.3(a) of title 21, Code of Federal Regulations) for the detection of SARS–CoV–2 or the diagnosis of the virus that causes COVID–19 that are approved, cleared, or authorized under section 510(k), 513, 515 or 564 of the Federal Food, Drug, and Cosmetic Act, and the administration of such in vitro diagnostic products.

(2) Items and services furnished to an individual during health care provider office visits (which term in this paragraph includes in-person visits and telehealth visits), urgent care center visits, and emergency room visits that result in an order for or administration of an in vitro diagnostic product described in paragraph (1), but only to the extent such items and services relate to the furnishing or administration of such product or to the evaluation of such individual for purposes of determining the need of such individual for such product.

(b) ENFORCEMENT.—The provisions of subsection (a) shall be applied by the Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury to group health plans and health insurance issuers offering group or individual health insurance coverage as if included in the provisions of part A of title XXVII of the Public Health Service Act, part 7 of the Employee Retirement Income Security Act of 1974, and subchapter B of chapter 100 of the Internal Revenue Code of 1986, as applicable.

(c) IMPLEMENTATION.—The Secretary of Health and Human Services, Secretary of Labor, and Secretary of the Treasury may implement the provisions of this section through sub-regulatory guidance, program instruction or otherwise.

(d) TERMS.—The terms "group health plan"; "health insurance issuer"; "group health insurance coverage", and "individual health insurance coverage" have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), and section 9832 of the Internal Revenue Code of 1986, as applicable.

SEC. 6002. WAIVING COST SHARING UNDER THE MEDICARE PROGRAM FOR CERTAIN VISITS RELATING TO TESTING FOR COVID–19.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1)—

(A) by striking "and" before "(CC)"; and

(B) by inserting before the period at the end the following: ", and (DD) with respect to a specified COVID–19 testing-related service described in paragraph (1) of subsection (cc) for which payment may be made under a specified outpatient payment provision described in paragraph (2) of such subsection, the amounts paid shall be 100 percent of the payment amount otherwise recognized under such respective specified outpatient payment provision for such service,";

(2) in subsection (b), in the first sentence—

(A) by striking "and" before "(10)"; and

(B) by inserting before the period at the end the following: ", and (11) such deductible shall not apply with respect to any specified COVID–19 testing-related service described in paragraph (1) of subsection (cc) for which payment may be made under a specified outpatient payment provision described in paragraph (2) of such subsection"; and

(3) by adding at the end the following new subsection:

"(cc) SPECIFIED COVID–19 TESTING-RELATED SERVICES.—For purposes of subsection (a)(1)(DD):

"(1) DESCRIPTION.—

"(A) IN GENERAL.—A specified COVID–19 testing-related service described in this paragraph is a medical visit that—

"(i) is in any of the categories of HCPCS evaluation and management service codes described in subparagraph (B);

"(ii) is furnished during any portion of the emergency period (as defined in section 1135(g)(1)(B))

(beginning on or after the date of enactment of this subsection);

"(iii) results in an order for or administration of a clinical diagnostic laboratory test described in section 1852(a)(1)(B)(iv)(IV); and

"(iv) relates to the furnishing or administration of such test or to the evaluation of such individual for purposes of determining the need of such individual for such test.

"(B) CATEGORIES OF HCPCS CODES.—For purposes of subparagraph (A), the categories of HCPCS evaluation and management services codes are the following:

"(i) Office and other outpatient services.

"(ii) Hospital observation services.

"(iii) Emergency department services.

"(iv) Nursing facility services.

"(v) Domiciliary, rest home, or custodial care services.

"(vi) Home services.

"(vii) Online digital evaluation and management services.

"(2) SPECIFIED OUTPATIENT PAYMENT PROVISION.—A specified outpatient payment provision described in this paragraph is any of the following:

"(A) The hospital outpatient prospective payment system under subsection (t).

"(B) The physician fee schedule under section 1848.

"(C) The prospective payment system developed under section 1834(o).

"(D) Section 1834(g), with respect to an outpatient critical access hospital service.

"(E) The payment basis determined in regulations pursuant to section 1833(a)(3) for rural health clinic services.".

(b) CLAIMS MODIFIER.—The Secretary of Health and Human Services shall provide for an appropriate modifier (or other identifier) to include on claims to identify, for purposes of subparagraph (DD) of section 1833(a)(1), as added by subsection (a), specified COVID–19 testing-related services described in paragraph (1) of section 1833(cc) of the Social Security Act, as added by subsection (a), for which payment may be made under a specified outpatient payment provision described in paragraph (2) of such subsection.

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the provisions of, including amendments made by, this section through program instruction or otherwise.

SEC. 6003. COVERAGE OF TESTING FOR COVID–19 AT NO COST SHARING UNDER THE MEDICARE ADVANTAGE PROGRAM.

(a) IN GENERAL.—Section 1852(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–22(a)(1)(B)) is amended—

(1) in clause (iv)—

(A) by redesignating subclause (IV) as subclause (VI); and

(B) by inserting after subclause (III) the following new subclauses:

"(IV) Clinical diagnostic laboratory test administered during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) beginning on or after the date of the enactment of the Families First Coronavirus Response Act for the detection of SARS–CoV–2 or the diagnosis of the virus that causes COVID–19 and the administration of such test.

"(V) Specified COVID–19 testing-related services (as described in section 1833(cc)(1)) for which payment would be payable under a specified outpatient payment provision described in section 1833(cc)(2).";

(2) in clause (v), by inserting ", other than subclauses (IV) and (V) of such clause," after "clause (iv)"; and

(3) by adding at the end the following new clause:

"(vi) PROHIBITION OF APPLICATION OF CERTAIN REQUIREMENTS FOR COVID–19 TESTING.—In the case of a product or service described in subclause (IV) or (V), respectively, of clause (iv) that is administered or furnished during any portion of the emergency period described in such subclause beginning on or after the date of the enactment of this clause, an MA plan may not impose any prior authorization or other utilization management requirements with respect to the coverage of such a product or service under such plan.".

(b) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the amendments made by this section by program instruction or otherwise.

SEC. 6004. COVERAGE AT NO COST SHARING OF COVID–19 TESTING UNDER MEDICAID AND CHIP.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1905(a)(3) of the Social Security Act (42 U.S.C. 1396d(a)(3)) is amended—

(A) by striking "other laboratory" and inserting "(A) other laboratory";

(B) by inserting "and" after the semicolon; and

(C) by adding at the end the following new subparagraph:

"(B) in vitro diagnostic products (as defined in section 809.3(a) of title 21, Code of Federal Regulations) administered during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) beginning on or after the date of the enactment of this subparagraph for the detection of SARS–CoV–2 or the diagnosis of the virus that causes COVID–19 that are approved, cleared, or authorized under section 510(k), 513, 515 or 564 of the Federal Food, Drug, and Cosmetic Act, and the administration of such in vitro diagnostic products;".

(2) NO COST SHARING.—

(A) IN GENERAL.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(i) in subparagraph (D), by striking "or" at the end;

(ii) in subparagraph (E), by striking "; and" and inserting a comma; and

(iii) by adding at the end the following new subparagraphs:

"(F) any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described in such section beginning on or after the date of the enactment of this subparagraph (and the administration of such product), or

"(G) COVID–19 testing-related services for which payment may be made under the State plan; and".

(B) APPLICATION TO ALTERNATIVE COST SHARING.—Section 1916A(b)(3)(B) of the Social Security Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended by adding at the end the following new clause:

"(xi) Any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described in such section beginning on or after the date of the enactment of this clause (and the administration of such product) and any visit described in section 1916(a)(2)(G) that is furnished during any such portion.".

(C) CLARIFICATION.—The amendments made this paragraph shall apply with respect to a State plan of a territory in the same manner as a State plan of one of the 50 States.

(3) STATE OPTION TO PROVIDE COVERAGE FOR UNINSURED INDIVIDUALS.—

(A) IN GENERAL.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended—

(i) in subparagraph (A)(ii)—

(I) in subclause (XXI), by striking "or" at the end;

(II) in subclause (XXII), by adding "or" at the end; and

(III) by adding at the end the following new subclause:

"(XXIII) during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) beginning on or after the date of the enactment of this subclause, who are uninsured individuals (as defined in subsection (ss));"; and

(ii) in the matter following subparagraph (G)—

(I) by striking "and (XVII)" and inserting ", (XVII)"; and

(II) by inserting after "instead of through subclause (VIII)" the following: ", and (XVIII) the medical assistance made available to an uninsured individual (as defined in subsection (ss)) who is eligible for medical assistance only because of subparagraph (A)(ii)(XXIII) shall be limited to medical assistance for any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described in such section beginning on or

after the date of the enactment of this subclause (and the administration of such product) and any visit described in section 1916(a)(2)(G) that is furnished during any such portion".

(B) RECEIPT AND INITIAL PROCESSING OF APPLICATIONS AT CERTAIN LOCATIONS.—Section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) is amended, in the matter preceding subparagraph (A), by striking "or (a)(10)(A)(ii)(IX)" and inserting "(a)(10)(A)(ii)(IX), or (a)(10)(A)(ii)(XXIII)".

(C) UNINSURED INDIVIDUAL DEFINED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(ss) UNINSURED INDIVIDUAL DEFINED.—For purposes of this section, the term 'uninsured individual' means, notwithstanding any other provision of this title, any individual who is—

"(1) not described in subsection (a)(10)(A)(i); and

"(2) not enrolled in a Federal health care program (as defined in section 1128B(f)), a group health plan, group or individual health insurance coverage offered by a health insurance issuer (as such terms are defined in section 2791 of the Public Health Service Act), or a health plan offered under chapter 89 of title 5, United States Code.".

(D) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 100 per centum with respect to (and, notwithstanding any other provision of this title, available for) medical assistance provided to uninsured individuals (as defined in section 1902(ss)) who are eligible for such assistance only on the basis of section 1902(a)(10)(A)(ii)(XXIII) and with respect to expenditures described in section 1903(a)(7) that a State demonstrates to the satisfaction of the Secretary are attributable to administrative costs related to providing for such medical assistance to such individuals under the State plan.".

(b) CHIP.—

(1) IN GENERAL.—Section 2103(c) of the Social Security Act (42 U.S.C. 1397cc(c)) is amended by adding at the end the following paragraph:

"(10) CERTAIN IN VITRO DIAGNOSTIC PRODUCTS FOR COVID–19 TESTING.—The child health assistance provided to a targeted low-income child shall include coverage of any in vitro diagnostic product described in section 1905(a)(3)(B) that is administered during any portion of the emergency period described in such section beginning on or after the date of the enactment of this subparagraph (and the administration of such product).".

(2) COVERAGE FOR TARGETED LOW-INCOME PREGNANT WOMEN.—Section 2112(b)(4) of the Social Security Act (42 U.S.C. 1397ll(b)(4)) is amended by inserting "under section 2103(c)" after "same requirements".

(3) PROHIBITION OF COST SHARING.—Section 2103(e)(2) of the Social Security Act (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the paragraph header, by inserting ", COVID–19 TESTING," before "OR PREGNANCY-RELATED ASSISTANCE"; and

(B) by striking "category of services described in subsection (c)(1)(D) or" and inserting "categories of services described in subsection (c)(1)(D), in vitro diagnostic products described in subsection (c)(10) (and administration of such products), visits described in section 1916(a)(2)(G), or".

SEC. 6005. TREATMENT OF PERSONAL RESPIRATORY PROTECTIVE DEVICES AS COVERED COUNTERMEASURES.

Section 319F–3(i)(1) of the Public Health Service Act (42 U.S.C. 247d–6d(i)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a personal respiratory protective device that is—

"(i) approved by the National Institute for Occupational Safety and Health under part 84 of title 42, Code of Federal Regulations (or successor regulations);

"(ii) subject to the emergency use authorization issued by the Secretary on March 2, 2020, or subsequent emergency use authorizations, pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (authorizing emergency use of personal respiratory protective devices during the COVID–19 outbreak); and

"(iii) used during the period beginning on January 27, 2020, and ending on October 1, 2024, in response to the public health emergency declared on January 31, 2020, pursuant to section 319 as a result of confirmed cases of 2019 Novel Coronavirus (2019-nCoV).".

SEC. 6006. APPLICATION WITH RESPECT TO TRICARE, COVERAGE FOR VETERANS, AND COVERAGE FOR FEDERAL CIVILIANS.

(a) TRICARE.—The Secretary of Defense may not require any copayment or other cost sharing under chapter 55 of title 10, United States Code, for in vitro diagnostic products described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act.

(b) VETERANS.—The Secretary of Veterans Affairs may not require any copayment or other cost sharing under chapter 17 of title 38, United States Code, for in vitro diagnostic products described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act.

(c) FEDERAL CIVILIANS.—No copayment or other cost sharing may be required for any individual occupying a position in the civil service (as that term is defined in section 2101(1) of title 5, United States Code) enrolled in a health benefits plan, including

any plan under chapter 89 of title 5, United States Code, or for any other individual currently enrolled in any plan under chapter 89 of title 5 for in vitro diagnostic products described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) beginning on or after the date of the enactment of this Act.

SEC. 6007. COVERAGE OF TESTING FOR COVID–19 AT NO COST SHARING FOR INDIANS RECEIVING PURCHASED/REFERRED CARE.

The Secretary of Health and Human Services shall cover, without the imposition of any cost sharing requirements, the cost of providing any COVID–19 related items and services as described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 320b–5(g)) beginning on or after the date of the enactment of this Act to Indians (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) receiving health services through the Indian Health Service, including through an Urban Indian Organization, regardless of whether such items or services have been authorized under the purchased/referred care system funded by the Indian Health Service or is covered as a health service of the Indian Health Service.

SEC. 6008. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) IN GENERAL.—Subject to subsection (b), for each calendar quarter occurring during the period beginning on the first day of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) and ending on the last day of the calendar quarter in which the last day of such emergency period occurs, the Federal medical assistance percentage determined for each State, including the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands, under section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall be increased by 6.2 percentage points.

(b) REQUIREMENT FOR ALL STATES.—A State described in subsection (a) may not receive the increase described in such subsection in the Federal medical assistance percentage for such State, with respect to a quarter, if—

(1) eligibility standards, methodologies, or procedures under the State plan of such State under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or section 1115 of such Act (42 U.S.C. 1315)) are more restrictive during such quarter than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on January 1, 2020;

(2) the amount of any premium imposed by the State pursuant to section 1916 or 1916A of such Act (42 U.S.C. 1396o, 1396o–1) during such quarter, with respect to an individual enrolled under such plan (or waiver), exceeds the amount of such premium as of January 1, 2020;

(3) the State fails to provide that an individual who is enrolled for benefits under such plan (or waiver) as of the date of enactment of this section or enrolls for benefits under

such plan (or waiver) during the period beginning on such date of enactment and ending the last day of the month in which the emergency period described in subsection (a) ends shall be treated as eligible for such benefits through the end of the month in which such emergency period ends unless the individual requests a voluntary termination of eligibility or the individual ceases to be a resident of the State; or

(4) the State does not provide coverage under such plan (or waiver), without the imposition of cost sharing, during such quarter for any testing services and treatments for COVID–19, including vaccines, specialized equipment, and therapies.

(c) REQUIREMENT FOR CERTAIN STATES.—Section 1905(cc) of the Social Security Act (42 U.S.C. 1396d(cc)) is amended by striking the period at the end of the subsection and inserting "and section 6008 of the Families First Coronavirus Response Act, except that in applying such treatments to the increases in the Federal medical assistance percentage under section 6008 of the Families First Coronavirus Response Act, the reference to 'December 31, 2009' shall be deemed to be a reference to 'March 11, 2020'.".

SEC. 6009. INCREASE IN MEDICAID ALLOTMENTS FOR TERRITORIES.

Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking "for each of fiscal years 2020 through 2021, $126,000,000;" and inserting "for fiscal year 2020, $128,712,500; and"; and

(iii) by adding at the end the following new clause: "(iii) for fiscal year 2021, $127,937,500;";

(B) in subparagraph (C)—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking "for each of fiscal years 2020 through 2021, $127,000,000;" and inserting "for fiscal year 2020, $130,875,000; and"; and

(iii) by adding at the end the following new clause: "(iii) for fiscal year 2021, $129,712,500;";

(C) in subparagraph (D)—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking "for each of fiscal years 2020 through 2021, $60,000,000; and" and inserting "for fiscal year 2020, $63,100,000; and"; and

(iii) by adding at the end the following new clause: "(iii) for fiscal year 2021, $62,325,000; and"; and

(D) in subparagraph (E)—

(i) in clause (i), by striking "and" at the end;

(ii) in clause (ii), by striking "for each of fiscal years 2020 through 2021, $84,000,000." and inserting "for fiscal year 2020, $86,325,000; and"; and

(iii) by adding at the end the following new clause: "(iii) for fiscal year 2021, $85,550,000."; and

(2) in paragraph (6)(A)—

(A) in clause (i), by striking "$2,623,188,000" and inserting "$2,716,188,000"; and

(B) in clause (ii), by striking "$2,719,072,000" and inserting "$2,809,063,000".

SEC. 6010. CLARIFICATION RELATING TO SECRETARIAL AUTHORITY REGARDING MEDICARE TELEHEALTH SERVICES FURNISHED DURING COVID–19 EMERGENCY PERIOD.

Paragraph (3)(A) of section 1135(g) of the Social Security Act (42 U.S.C. 1320b–5(g)) is amended to read as follows:

"(A) furnished to such individual, during the 3-year period ending on the date such telehealth service was furnished, an item or service that would be considered covered under title XVIII if furnished to an individual entitled to benefits or enrolled under such title; or".

DIVISION G—TAX CREDITS FOR PAID SICK AND PAID FAMILY AND MEDICAL LEAVE

SEC. 7001. PAYROLL CREDIT FOR REQUIRED PAID SICK LEAVE.

(a) IN GENERAL.—In the case of an employer, there shall be allowed as a credit against the tax imposed by section 3111(a) or 3221(a) of the Internal Revenue Code of 1986 for each calendar quarter an amount equal to 100 percent of the qualified sick leave wages paid by such employer with respect to such calendar quarter.

(b) LIMITATIONS AND REFUNDABILITY.—

(1) WAGES TAKEN INTO ACCOUNT.—The amount of qualified sick leave wages taken into account under subsection (a) with respect to any individual shall not exceed $200 ($511 in the case of any day any portion of which is paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act) for any day (or portion thereof) for which the individual is paid qualified sick leave wages.

(2) OVERALL LIMITATION ON NUMBER OF DAYS TAKEN INTO ACCOUNT.—The aggregate number of days taken into account under paragraph (1) for any calendar quarter shall not exceed the excess (if any) of—

(A) 10, over

(B) the aggregate number of days so taken into account for all preceding calendar quarters.

(3) CREDIT LIMITED TO CERTAIN EMPLOYMENT TAXES.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the tax imposed by section 3111(a) or 3221(a) of such Code for such calendar quarter (reduced by any credits allowed under subsections (e) and (f) of section 3111 of such Code for such quarter) on the wages paid with respect to the employment of all employees of the employer.

(4) REFUNDABILITY OF EXCESS CREDIT.—

(A) IN GENERAL.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (3) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of such Code.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any amounts due to an employer under this paragraph shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(c) QUALIFIED SICK LEAVE WAGES.—For purposes of this section, the term "qualified sick leave wages" means wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) and compensation (as defined in section 3231(e) of the Internal Revenue Code) paid by an employer which are required to be paid by reason of the Emergency Paid Sick Leave Act.

(d) ALLOWANCE OF CREDIT FOR CERTAIN HEALTH PLAN EXPENSES.—

(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be increased by so much of the employer's qualified health plan expenses as are properly allocable to the qualified sick leave wages for which such credit is so allowed.

(2) QUALIFIED HEALTH PLAN EXPENSES.—For purposes of this subsection, the term "qualified health plan expenses" means amounts paid or incurred by the employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986), but only to the extent that such amounts are excluded from the gross income of employees by reason of section 106(a) of such Code.

(3) ALLOCATION RULES.—For purposes of this section, qualified health plan expenses shall be allocated to qualified sick leave wages in such manner as the Secretary of the Treasury (or the Secretary's delegate) may prescribe. Except as otherwise provided by the Secretary, such allocation shall be treated as properly made if made on the basis of being pro rata among covered employees and pro rata on the basis of periods of coverage (relative to the time periods of leave to which such wages relate).

(e) SPECIAL RULES.—

(1) DENIAL OF DOUBLE BENEFIT.—For purposes of chapter 1 of such Code, the gross income of the employer, for the taxable year which includes the last day of any calendar quarter with respect to which a credit is allowed under this section, shall be increased by the amount of such credit. Any wages taken into account in determining the credit allowed under this section shall not be taken into account for purposes of determining the credit allowed under section 45S of such Code.

(2) ELECTION NOT TO HAVE SECTION APPLY.—This section shall not apply with respect to any employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) may prescribe) not to have this section apply.

(3) CERTAIN TERMS.—Any term used in this section which is also used in chapter 21 of such Code shall have the same meaning as when used in such chapter.

(4) CERTAIN GOVERNMENTAL EMPLOYERS.—This credit shall not apply to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing.

(f) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

(1) regulations or other guidance to prevent the avoidance of the purposes of the limitations under this section,

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section,

(3) regulations or other guidance providing for waiver of penalties for failure to deposit amounts in anticipation of the allowance of the credit allowed under this section,

(4) regulations or other guidance for recapturing the benefit of credits determined under this section in cases where there is a subsequent adjustment to the credit determined under subsection (a), and

(5) regulations or other guidance to ensure that the wages taken into account under this section conform with the paid sick time required to be provided under the Emergency Paid Sick Leave Act.

(g) APPLICATION OF SECTION.—This section shall apply only to wages paid with respect to the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on December 31, 2020.

(h) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

SEC. 7002. CREDIT FOR SICK LEAVE FOR CERTAIN SELF-EMPLOYED INDIVIDUALS.

(a) CREDIT AGAINST SELF-EMPLOYMENT TAX.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for any taxable year an amount equal to the qualified sick leave equivalent amount with respect to the individual.

(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term "eligible self-employed individual" means an individual who—

(1) regularly carries on any trade or business within the meaning of section 1402 of such Code, and

(2) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Paid Sick Leave Act if the individual were an employee of an employer (other than himself or herself).

(c) QUALIFIED SICK LEAVE EQUIVALENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term "qualified sick leave equivalent amount" means, with respect to any eligible self-employed individual, an amount equal to—

(A) the number of days during the taxable year (but not more than the applicable number of days) that the individual is unable to perform services in any trade or business referred to in section 1402 of such Code for a

reason with respect to which such individual would be entitled to receive sick leave as described in subsection (b), multiplied by

(B) the lesser of—

(i) $200 ($511 in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act), or

(ii) 67 percent (100 percent in the case of any day of paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act) of the average daily self-employment income of the individual for the taxable year.

(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME.—For purposes of this subsection, the term "average daily self-employment income" means an amount equal to—

(A) the net earnings from self-employment of the individual for the taxable year, divided by

(B) 260.

(3) APPLICABLE NUMBER OF DAYS.—For purposes of this subsection, the term "applicable number of days" means, with respect to any taxable year, the excess (if any) of 10 days over the number of days taken into account under paragraph (1)(A) in all preceding taxable years.

(d) SPECIAL RULES.—

(1) CREDIT REFUNDABLE.—

(A) IN GENERAL.—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(2) DOCUMENTATION.—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary of the Treasury (or the Secretary's delegate) may prescribe to establish such individual as an eligible self-employed individual.

(3) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined in section 3231(e) of the Internal Revenue Code) paid by an employer which are required to be paid by reason of the Emergency Paid Sick Leave Act, the qualified sick leave equivalent amount otherwise determined under subsection (c) shall be reduced (but not below zero) to the extent that the sum of the amount described in such subsection and in section 7001(b)(1) exceeds $2,000 ($5,110 in the case of any day any portion of which is paid sick time described in paragraph (1), (2), or (3) of section 5102(a) of the Emergency Paid Sick Leave Act).

(4) CERTAIN TERMS.—Any term used in this section which is also used in chapter 2 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

(e) APPLICATION OF SECTION.—Only days occurring during the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on December 31, 2020, may be taken into account under subsection (c)(1)(A).

(f) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary of the Treasury (or the Secretary's delegate) based on information provided by the government of the respective possession.

(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury (or the Secretary's delegate) as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary of the Treasury (or the Secretary's delegate), under which such possession will promptly distribute such payments to its residents.

(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term "mirror code tax system" means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(g) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

(1) regulations or other guidance to effectuate the purposes of this Act, and

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.

SEC. 7003. PAYROLL CREDIT FOR REQUIRED PAID FAMILY LEAVE.

(a) IN GENERAL.—In the case of an employer, there shall be allowed as a credit against the tax imposed by section 3111(a) or 3221(a) of the Internal Revenue Code of 1986 for each calendar quarter an amount equal to 100 percent of the qualified family leave wages paid by such employer with respect to such calendar quarter.

(b) LIMITATIONS AND REFUNDABILITY.—

(1) WAGES TAKEN INTO ACCOUNT.—The amount of qualified family leave wages taken into account under subsection (a) with respect to any individual shall not exceed—

(A) for any day (or portion thereof) for which the individual is paid qualified family leave wages, $200, and

(B) in the aggregate with respect to all calendar quarters, $10,000.

(2) CREDIT LIMITED TO CERTAIN EMPLOYMENT TAXES.—The credit allowed by subsection (a) with respect to any calendar quarter shall not exceed the tax imposed by section 3111(a) or 3221(a) of such Code for such calendar quarter (reduced by any credits allowed under subsections (e) and (f) of section 3111 of such Code, and section 7001 of this Act, for such quarter) on the wages paid with respect to the employment of all employees of the employer.

(3) REFUNDABILITY OF EXCESS CREDIT.—If the amount of the credit under subsection (a) exceeds the limitation of paragraph (2) for any calendar quarter, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of such Code.

(c) QUALIFIED FAMILY LEAVE WAGES.—For purposes of this section, the term "qualified family leave wages" means wages (as defined in section 3121(a) of such Code) and compensation (as defined in section 3231(e) of the Internal Revenue Code) paid by an employer which are required to be paid by reason of the Emergency Family and Medical Leave Expansion Act (including the amendments made by such Act).

(d) ALLOWANCE OF CREDIT FOR CERTAIN HEALTH PLAN EXPENSES.—

(1) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be increased by so much of the employer's qualified health plan expenses as are properly allocable to the qualified family leave wages for which such credit is so allowed.

(2) QUALIFIED HEALTH PLAN EXPENSES.—For purposes of this subsection, the term "qualified health plan expenses" means amounts paid or incurred by the employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986), but only to the extent that such amounts are excluded from the gross income of employees by reason of section 106(a) of such Code.

(3) ALLOCATION RULES.—For purposes of this section, qualified health plan expenses shall be allocated to qualified family leave wages in such manner as the Secretary of the Treasury (or the Secretary's delegate) may prescribe. Except as otherwise provided by the Secretary, such allocation shall be treated as properly made if made on the basis of being pro rata among covered employees and pro rata on the basis of periods of coverage (relative to the time periods of leave to which such wages relate).

(e) SPECIAL RULES.—

(1) DENIAL OF DOUBLE BENEFIT.—For purposes of chapter 1 of such Code, the gross income of the employer, for the taxable year which includes the last day of any calendar quarter with respect to which a credit is allowed under this section, shall be increased by the amount of such credit. Any wages taken into account in determining the credit allowed under

this section shall not be taken into account for purposes of determining the credit allowed under section 45S of such Code.

(2) ELECTION NOT TO HAVE SECTION APPLY.—This section shall not apply with respect to any employer for any calendar quarter if such employer elects (at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) may prescribe) not to have this section apply.

(3) CERTAIN TERMS.—Any term used in this section which is also used in chapter 21 of such Code shall have the same meaning as when used in such chapter.

(4) CERTAIN GOVERNMENTAL EMPLOYERS.—This credit shall not apply to the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing.

(f) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

(1) regulations or other guidance to prevent the avoidance of the purposes of the limitations under this section,

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section,

(3) regulations or other guidance providing for waiver of penalties for failure to deposit amounts in anticipation of the allowance of the credit allowed under this section,

(4) regulations or other guidance for recapturing the benefit of credits determined under this section in cases where there is a subsequent adjustment to the credit determined under subsection (a), and

(5) regulations or other guidance to ensure that the wages taken into account under this section conform with the paid leave required to be provided under the Emergency Family and Medical Leave Expansion Act (including the amendments made by such Act).

(g) APPLICATION OF SECTION.—This section shall apply only to wages paid with respect to the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on December 31, 2020.

(h) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

SEC. 7004. CREDIT FOR FAMILY LEAVE FOR CERTAIN SELF-EMPLOYED INDIVIDUALS.

(a) CREDIT AGAINST SELF-EMPLOYMENT TAX.—In the case of an eligible self-employed individual, there shall be allowed as a credit against the tax imposed by subtitle A of the Internal Revenue Code of 1986 for any taxable year an amount equal to 100 percent of the qualified family leave equivalent amount with respect to the individual.

(b) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term "eligible self-employed individual" means an individual who—

(1) regularly carries on any trade or business within the meaning of section 1402 of such Code, and

(2) would be entitled to receive paid leave during the taxable year pursuant to the Emergency Family and Medical Leave Expansion Act if the individual were an employee of an employer (other than himself or herself).

(c) QUALIFIED FAMILY LEAVE EQUIVALENT AMOUNT.—For purposes of this section—

(1) IN GENERAL.—The term "qualified family leave equivalent amount" means, with respect to any eligible self-employed individual, an amount equal to the product of—

(A) the number of days (not to exceed 50) during the taxable year that the individual is unable to perform services in any trade or business referred to in section 1402 of such Code for a reason with respect to which such individual would be entitled to receive paid leave as described in subsection (b), multiplied by

(B) the lesser of—

(i) 67 percent of the average daily self-employment income of the individual for the taxable year, or

(ii) $200.

(2) AVERAGE DAILY SELF-EMPLOYMENT INCOME.—For purposes of this subsection, the term "average daily self-employment income" means an amount equal to—

(A) the net earnings from self-employment income of the individual for the taxable year, divided by

(B) 260.

(d) SPECIAL RULES.—

(1) CREDIT REFUNDABLE.—

(A) IN GENERAL.—The credit determined under this section shall be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A of chapter 1 of such Code.

(B) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, any refund due from the credit determined under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(2) DOCUMENTATION.—No credit shall be allowed under this section unless the individual maintains such documentation as the Secretary of the Treasury (or the Secretary's delegate) may prescribe to establish such individual as an eligible self-employed individual.

(3) DENIAL OF DOUBLE BENEFIT.—In the case of an individual who receives wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) or compensation (as defined

in section 3231(e) of the Internal Revenue Code) paid by an employer which are required to be paid by reason of the Emergency Family and Medical Leave Expansion Act, the qualified family leave equivalent amount otherwise described in subsection (c) shall be reduced (but not below zero) to the extent that the sum of the amount described in such subsection and in section 7003(b)(1) exceeds $10,000.

(4) CERTAIN TERMS.—Any term used in this section which is also used in chapter 2 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such chapter.

(5) REFERENCES TO EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT.—Any reference in this section to the Emergency Family and Medical Leave Expansion Act shall be treated as including a reference to the amendments made by such Act.

(e) APPLICATION OF SECTION.—Only days occurring during the period beginning on a date selected by the Secretary of the Treasury (or the Secretary's delegate) which is during the 15-day period beginning on the date of the enactment of this Act, and ending on December 31, 2020, may be taken into account under subsection (c)(1)(A).

(f) APPLICATION OF CREDIT IN CERTAIN POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS WITH MIRROR CODE TAX SYSTEMS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which has a mirror code tax system amounts equal to the loss (if any) to that possession by reason of the application of the provisions of this section. Such amounts shall be determined by the Secretary of the Treasury (or the Secretary's delegate) based on information provided by the government of the respective possession.

(2) PAYMENTS TO OTHER POSSESSIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall pay to each possession of the United States which does not have a mirror code tax system amounts estimated by the Secretary of the Treasury (or the Secretary's delegate) as being equal to the aggregate benefits (if any) that would have been provided to residents of such possession by reason of the provisions of this section if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply unless the respective possession has a plan, which has been approved by the Secretary of the Treasury (or the Secretary's delegate), under which such possession will promptly distribute such payments to its residents.

(3) MIRROR CODE TAX SYSTEM.—For purposes of this section, the term "mirror code tax system" means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(4) TREATMENT OF PAYMENTS.—For purposes of section 1324 of title 31, United States Code, the payments under this section shall be treated in the same manner as a refund due from a credit provision referred to in subsection (b)(2) of such section.

(e) REGULATIONS.—The Secretary of the Treasury (or the Secretary's delegate) shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—

(1) regulations or other guidance to prevent the avoidance of the purposes of this Act, and

(2) regulations or other guidance to minimize compliance and record-keeping burdens under this section.

SEC. 7005. SPECIAL RULE RELATED TO TAX ON EMPLOYERS.

(a) IN GENERAL.—Any wages required to be paid by reason of the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act shall not be considered wages for purposes of section 3111(a) of the Internal Revenue Code of 1986 or compensation for purposes of section 3221(a) of such Code.

(b) ALLOWANCE OF CREDIT FOR HOSPITAL INSURANCE TAXES.—

(1) IN GENERAL.—The credit allowed by section 7001 and the credit allowed by section 7003 shall each be increased by the amount of the tax imposed by section 3111(b) of the Internal Revenue Code of 1986 on qualified sick leave wages, or qualified family leave wages, for which credit is allowed under such section 7001 or 7003 (respectively).

(2) DENIAL OF DOUBLE BENEFIT.—For denial of double benefit with respect to the credit increase under paragraph (1), see sections 7001(e)(1) and 7003(e)(1).

(c) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of this section (without regard to this subsection). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund or Account had this section not been enacted.

DIVISION H—BUDGETARY EFFECTS

SEC. 8001. BUDGETARY EFFECTS.

(a) STATUTORY PAYGO SCORECARDS.—The budgetary effects of division B and each succeeding division shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARDS.—The budgetary effects of division B and each succeeding division shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) CLASSIFICATION OF BUDGETARY EFFECTS.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217 and section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the

budgetary effects of division B and each succeeding division shall not be estimated—

(1) for purposes of section 251 of such Act; and

(2) for purposes of paragraph (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Assembly Bill No. 1867

CHAPTER 45

An act to add and repeal Section 12945.21 of the Government Code, to add Section 113963 to the Health and Safety Code, and to amend Section 248.5 of, and to add Sections 248 and 248.1 to, the Labor Code, relating to worker protections, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 9, 2020. Filed with Secretary of State September 9, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1867, Committee on Budget. Small employer family leave mediation: handwashing: supplemental paid sick leave.

(1) Existing law, the California Fair Employment and Housing Act (FEHA), establishes the Department of Fair Employment and Housing (DFEH) within the Business, Consumer Services, and Housing Agency to enforce civil rights laws with respect to housing and employment and to protect and safeguard the right of all persons to obtain and hold employment without discrimination based on specified characteristics or status. Under FEHA, the DFEH has specified powers, including the power to receive, investigate, conciliate, mediate, and prosecute certain complaints. The Moore-Brown-Roberti Family Rights Act, commonly known as the California Family Rights Act, which is a part of FEHA, makes it an unlawful employment practice for an employer, as defined, to refuse to grant a request by an eligible employee to take up to 12 workweeks of unpaid protected leave during any 12-month period for family care and medical leave, as specified.

This bill would, upon specified circumstances, require the DFEH to create a small employer family leave mediation pilot program, as prescribed. The pilot program would authorize a small employer or the employee to request all parties to participate in mediation through the DFEH's dispute resolution division within a specified timeframe, after notice. The bill would prohibit an employee from pursuing civil action until the mediation is complete if an employer or employee requests mediation, as prescribed. The bill would toll the statute of limitations for the employee, including for additional related claims, from receipt of a request to participate in the program until the mediation is complete. These provisions of the bill would be repealed on January 1, 2024.

(2) Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities and delegates the enforcement of those standards to the State Department of Public Health and local health agencies. Existing law requires food employees to keep

their hands and exposed portions of their arms clean, washing as specified, and regulates the provision of handwashing facilities. A violation of these provisions is a misdemeanor, punishable as prescribed.

This bill would require a food employee working in any food facility to be permitted to wash their hands every 30 minutes and additionally as needed. By changing the scope of an existing crime, the bill would impose a state-mandated local program.

(3) Existing law, the Healthy Workplaces, Healthy Families Act of 2014, entitles an employee who works in California for the same employer for 30 or more days within a year from the commencement of employment to paid sick days. Under existing law, an employee accrues paid sick days at a rate of not less than one hour per every 30 hours worked, subject to certain use, accrual, and yearly carryover limitations. Existing law authorizes an employer to use a different accrual method from that described above, provided that the accrual is on a regular basis so that the employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year or in each 12-month period. Under existing law, an employer is not required to provide additional paid sick leave if the employer has a paid leave policy or paid time off policy and makes available an amount of leave to employees under the same conditions and the policy satisfies the accrual, carryover, and use requirements described above. Existing law requires an employer, in each workplace of the employer, to display a poster in a conspicuous place containing specified information on paid sick days. Existing law requires the Labor Commissioner to create a poster containing this information and make it available to employers. Existing law requires the Labor Commissioner to enforce the act and provides for procedures, including investigation and hearing, and for remedies and penalties.

This bill would establish COVID-19 food sector supplemental paid sick leave for food sector workers, as prescribed. The bill would require a hiring entity to provide a number of hours of COVID-19 food sector supplemental paid sick leave, determined as prescribed, to each food sector worker who performs work for or through the hiring entity if that food sector worker is unable to work due to any of specified reasons relating to COVID-19. The bill would authorize a food sector worker to determine how many hours of this leave to use, up to the total number of hours to which the worker is entitled. Under the bill, the rate of compensation would be the highest of the food sector worker's regular rate of pay in the last pay period, the state minimum wage, or an applicable local minimum wage, up to daily and aggregate total maximum payments. The bill would exempt a hiring entity from being required to provide the COVID-19 food sector supplemental paid sick leave if the hiring entity provides the relevant food sector worker, as of the effective date of the bill's provisions, with a specified other supplemental benefit. The bill would require the Labor Commissioner to enforce the COVID-19 food sector supplemental paid sick leave provisions, as provided. For purposes of enforcement, the bill would deem all food

sector workers to be employees and any hiring entity to be an employer. The bill would define terms for these purposes.

This bill would similarly establish COVID-19 supplemental paid sick leave for covered workers, including certain persons employed by private businesses of 500 or more employees or persons employed as certain types of health care providers or emergency responders by public or private entities. The bill would require the Labor Commissioner to make publicly available a model notice relating to COVID-19 supplemental paid sick leave for covered workers for purposes of the posting requirements under existing law. The bill would permit notice by electronic means in lieu of posting, for purposes of COVID-19 supplemental paid sick leave only, if a hiring entity's covered workers do not frequent a workplace.

The bill's requirements to provide COVID-19 food sector supplemental paid sick leave and COVID-19 supplemental paid sick leave for covered workers would expire on December 31, 2020, or upon the expiration of any federal extension of the Emergency Paid Sick Leave Act established by the federal Families First Coronavirus Response Act, whichever is later.

This bill would appropriate $100,000 from the Labor and Workforce Development Fund to the Labor Commissioner for staffing resources to implement and enforce the provisions related to the COVID-19 supplemental paid sick leave for covered workers and COVID-19 food sector supplemental paid sick leave.

The bill would require the Labor Commissioner to enforce existing law and the bill's provisions through prescribed procedures.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 12945.21 is added to the Government Code, to read:

12945.21. (a) The department shall create a small employer family leave mediation pilot program for employers with between 5 and 19 employees. Under the pilot program, such an employer may, within 30 days of receipt of a right-to-sue notice alleging a violation of Section 12945.2, or the employee may, within 30 days of obtaining a right-to-sue notice alleging a violation of Section 12945.2, request all parties to participate in the department's dispute resolution division. The right-to-sue notice shall include or be accompanied by a written statement describing the parties' right to participate in the mediation pilot program, including information on the

timeframe to request mediation. If the employer or employee requests mediation in compliance with this subdivision, the employee shall not pursue any civil action under this section until the mediation is complete. The department shall initiate the mediation promptly following the request. The employee's statute of limitations, including for all related claims not under this section, shall be tolled upon receipt of a request to participate in the department's dispute resolution division under this subdivision until the mediation is complete. For purposes of this subdivision, a mediation is complete when, at any time after the employer or employee's request, the department notifies the parties that it believes further mediation would be fruitless.

(b) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 113963 is added to the Health and Safety Code, to read:

113963. Consistent with Section 113952, a food employee working in any food facility, as defined in Section 113789 of the Health and Safety Code, shall be permitted to wash their hands every 30 minutes and additionally as needed.

SEC. 3. Section 248 is added to the Labor Code, to read:

248. (a) As used in this section:

(1) "COVID-19 food sector supplemental paid sick leave" means supplemental paid sick leave provided pursuant to this section.

(2) "Food sector worker" means any person who satisfies all of the following criteria:

(A) The person satisfies one or more of the following criteria:

(i) The person works in an industry or occupation defined in paragraph (B) of Section 2 of IWC Wage Order 3-2001, paragraph (H) of Section 2 of IWC Wage Order 8-2001, paragraph (H) of Section 2 of IWC Wage Order 13-2001, or paragraph (D) of Section 2 of IWC Wage Order 14-2001.

(ii) The person works for a hiring entity that operates a food facility, as defined in Section 113789 of the Health and Safety Code.

(iii) The person delivers food from a food facility, as defined in Section 113789 of the Health and Safety Code, for or through a hiring entity.

(B) The person leaves the person's home or other place of residence to perform work for or through the person's hiring entity.

(3) "Hiring entity" means a private sole proprietorship or any kind of private entity whatsoever, including, but not limited to, any kind of corporation, partnership, limited liability company, limited liability partnership, or any other kind of business enterprise, and specifically including, but not limited to, any delivery network company, as defined in subdivision (b) of Section 6041.5 of the Revenue and Taxation Code, and any transportation network company, as defined in subdivision (c) of Section 5431 of the Public Utilities Code, that has 500 or more employees in the United States. For purposes of this paragraph, Section 826.40(a)(1) and (2) of Title 29 of the Code of Federal Regulations shall be used to determine the number of employees that the hiring entity employs.

(4) "IWC Wage Order" means a wage order of the Industrial Welfare Commission.

(b) A food sector worker shall be entitled to COVID-19 food sector supplemental paid sick leave as follows:

(1) A hiring entity shall provide COVID-19 food sector supplemental paid sick leave to each food sector worker who performs work for or through the hiring entity if that food sector worker is unable to work due to any of the following reasons:

(A) The food sector worker is subject to a federal, state, or local quarantine or isolation order related to COVID-19.

(B) The food sector worker is advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19.

(C) The food sector worker is prohibited from working by the food sector worker's hiring entity due to health concerns related to the potential transmission of COVID-19.

(2) A food sector worker shall be entitled to the following number of hours of COVID-19 food sector supplemental paid sick leave:

(A) A food sector worker is entitled to 80 hours of COVID-19 food sector supplemental paid sick leave, if the food sector worker satisfies either of the following criteria:

(i) The hiring entity considers the food sector worker to work "full time."

(ii) The food sector worker worked or was scheduled to work, on average, at least 40 hours per week for the hiring entity in the two weeks preceding the date the food sector worker took COVID-19 food sector supplemental paid sick leave.

(B) A food sector worker who does not satisfy either of the criteria in subparagraph (A) is entitled to an amount of COVID-19 food sector supplemental paid sick leave as follows:

(i) If the food sector worker has a normal weekly schedule, the total number of hours the food sector worker is normally scheduled to work for or through a hiring entity over two weeks.

(ii) If the food sector worker works a variable number of hours, 14 times the average number of hours the food sector worker worked each day for or through the hiring entity in the six months preceding the date the food sector worker took COVID-19 food sector supplemental paid sick leave. If the food sector worker has worked for the hiring entity fewer than six months, this calculation shall instead be made over the entire period the food sector worker has worked for the hiring entity.

(C) The total number of hours of COVID-19 food sector supplemental paid sick leave to which a food sector worker is entitled pursuant to subparagraph (A) or (B) shall be in addition to any paid sick leave that may be available to the food sector worker under Section 246, but shall not be in addition to the total number of hours of supplemental paid sick leave available to the worker under Executive Order N-51-20.

(D) A food sector worker may determine how many hours of COVID-19 food sector supplemental paid sick leave to use, up to the total number of hours to which the food sector worker is entitled pursuant to subparagraph

(A) or (B). The hiring entity shall make COVID-19 food sector supplemental paid sick leave available for immediate use by the food sector worker, upon the oral or written request of the worker to the hiring entity.

(E) A hiring entity is not required to provide a food sector worker more than the total number of hours of COVID-19 food sector supplemental paid sick leave to which the food sector worker is entitled pursuant to subparagraph (A) or (B) above.

(3) (A) Each hour of COVID-19 food sector supplemental paid sick leave shall be compensated at a rate equal to the highest of the following:

(i) The food sector worker's regular rate of pay for the food sector worker's last pay period.

(ii) The state minimum wage.

(iii) The local minimum wage to which the food sector worker is entitled.

(B) Notwithstanding subparagraph (A), a hiring entity shall not be required to pay more than five hundred eleven dollars ($511) per day and five thousand one hundred ten dollars ($5,110) in the aggregate to a food sector worker for COVID-19 food sector supplemental paid sick leave taken by the worker.

(4) A hiring entity shall not require a food sector worker to use any other paid or unpaid leave, paid time off, or vacation time provided by the hiring entity to the food sector worker before the food sector worker uses COVID-19 food sector supplemental paid sick leave or in lieu of COVID-19 food sector supplemental paid sick leave.

(c) Notwithstanding subdivision (b), if a hiring entity already provides the relevant food sector worker with a supplemental benefit, such as supplemental paid leave, that is payable for the reasons listed in paragraph (1) of subdivision (b) and that would compensate the food sector worker in an amount equal to or greater than the amount of compensation for taking COVID-19 food sector supplemental paid sick leave to which the food sector worker would otherwise be entitled as set forth under paragraph (3) of subdivision (b), then the hiring entity may count the hours of the other paid benefit or leave towards the total number of hours of COVID-19 food sector supplemental paid sick leave that the hiring entity is required to provide to the food sector worker under paragraph (2) of subdivision (b). For purposes of the foregoing, the other supplemental paid benefit or leave that may be counted does not include paid sick leave to which the food sector worker is entitled under Section 246, but may include paid leave already provided by the hiring entity pursuant to Executive Order N-51-20 or supplemental paid leave provided pursuant to federal or local law for the same reasons set forth in paragraph (1) of subdivision (b).

(d) (1) In addition to other remedies as may be provided by the laws of this state or its subdivisions, including, but not limited to, the remedies available to redress any unlawful business practice under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, the Labor Commissioner shall enforce this section. For purposes of such enforcement and to implement COVID-19 food sector supplemental paid sick leave, this section shall apply as follows:

(A) The Labor Commissioner shall enforce this section as if COVID-19 food sector supplemental paid sick leave constitutes "paid sick days," "paid sick leave," or "sick leave" under subdivision (n) of Section 246, subdivisions (b) and (c) of Section 246.5, Section 247, Section 247.5, and Section 248.5. Any claim by a covered worker that is enforceable by the Labor Commissioner for supplemental paid sick leave pursuant to Executive Order N-51-20 shall also be enforceable through this section.

(B) Section 249 applies to COVID-19 food sector supplemental paid sick leave.

(2) For purposes of sections of this code cited in subparagraphs (A) to (C), inclusive, of paragraph (1), in construing this section all food sector workers shall be considered employees and any hiring entity shall be considered an employer.

(e) The requirement to provide COVID-19 food sector supplemental paid sick leave as set forth in this section applies retroactively to April 16, 2020, and shall expire on December 31, 2020 or upon the expiration of any federal extension of the Emergency Paid Sick Leave Act established by the federal Families First Coronavirus Response Act (Public Law 116-127), whichever is later, except that a food sector worker taking COVID-19 food sector supplemental paid sick leave at the time of the expiration of this section shall be permitted to take the full amount of COVID-19 food sector supplemental paid sick leave to which that food sector worker otherwise would have been entitled under this section.

SEC. 4. Section 248.1 is added to the Labor Code, to read:

248.1. (a) As used in this section:

(1) "COVID-19 supplemental paid sick leave" means supplemental paid sick leave provided pursuant to this section.

(2) "Covered worker" means any person who satisfies the following criteria:

(A) The person satisfies one or more of the following criteria:

(i) The person is employed by a hiring entity, as defined in subparagraph (A) of paragraph (3).

(ii) The person is employed as a health care provider or emergency responder, as defined under Section 826.30(c) of Title 29 of the Code of Federal Regulations, by a hiring entity as defined in subparagraph (B) of paragraph (3) that has elected to exclude such employees from emergency paid sick leave under the federal Families First Coronavirus Response Act (Public Law 116-127).

(B) The person satisfying one or more of the criteria in subparagraph (A) leaves the person's home or other place of residence to perform work for the person's hiring entity.

(C) Notwithstanding subparagraph (A), a "covered worker" shall not include any of the following:

(i) A person who works in an industry or occupation defined in paragraph (B) of Section 2 of IWC Wage Order 3-2001, paragraph (H) of Section 2 of IWC Wage Order 8-2001, paragraph (H) of Section 2 of IWC Wage Order 13-2001, or paragraph (D) of Section 2 of IWC Wage Order 14-2001.

(ii) A person who works for a hiring entity that operates a food facility, as defined in Section 113789 of the Health and Safety Code.

(iii) A person who delivers food from a food facility, as defined in Section 113789 of the Health and Safety Code, for or through a hiring entity.

(3) "Hiring entity" means either of the following:

(A) A private sole proprietorship or any kind of private entity whatsoever, including, but not limited to, any kind of corporation, partnership, limited liability company, limited liability partnership, or any other kind of business enterprise that has 500 or more employees in the United States. For purposes of this paragraph, Section 826.40(a)(1) and (2) of Title 29 of the Code of Federal Regulations shall be used to determine the number of employees that the hiring entity employs.

(B) An entity, including a public entity, that employs health care providers or emergency responders as defined under Section 826.30(c) of Title 29 of the Code of Federal Regulations, and that has elected to exclude such employees from emergency paid sick leave under the federal Families First Coronavirus Response Act (Public Law 116-127).

(4) "IWC Wage Order" means a wage order of the Industrial Welfare Commission.

(b) A covered worker shall be entitled to COVID-19 supplemental paid sick leave as follows:

(1) A hiring entity shall provide COVID-19 supplemental paid sick leave to each covered worker who performs work for the hiring entity if that covered worker is unable to work due to any of the following reasons:

(A) The covered worker is subject to a federal, state, or local quarantine or isolation order related to COVID-19.

(B) The covered worker is advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19.

(C) The covered worker is prohibited from working by the covered worker's hiring entity due to health concerns related to the potential transmission of COVID-19.

(2) A covered worker shall be entitled to the following number of hours of COVID-19 supplemental paid sick leave:

(A) A covered worker is entitled to 80 hours of COVID-19 supplemental paid sick leave, if the covered worker satisfies either of the following criteria:

(i) The hiring entity considers the covered worker to work "full time."

(ii) The covered worker worked or was scheduled to work, on average, at least 40 hours per week for the hiring entity in the two weeks preceding the date the covered worker took COVID-19 supplemental paid sick leave.

(B) Notwithstanding subparagraph (A), a covered worker who is an active firefighter who was scheduled to work more than 80 hours for the hiring entity in the two weeks preceding the date the covered worker took COVID-19 supplemental paid sick leave is entitled to an amount of COVID-19 supplemental paid sick leave equal to the total number of hours that the covered worker was scheduled to work for the hiring entity in those two preceding weeks. This subparagraph applies to an active firefighting member of any of the following:

(i) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(ii) A fire department of the University of California and the California State University.

(iii) The Department of Forestry and Fire Protection.

(iv) A county forestry or firefighting department or unit.

(v) A fire department that serves a United States Department of Defense installation and whose firefighters are certified by the United States Department of Defense as meeting its standards for firefighters.

(vi) A fire department that serves a National Aeronautics and Space Administration installation and that adheres to training standards established in accordance with Article 4 (commencing with Section 13155) of Chapter 1 of Part 2 of Division 12 of the Health and Safety Code.

(vii) A fire department that provides fire protection to a commercial airport regulated by the Federal Aviation Administration (FAA) under Part 139 (commencing with Section 139.1) of Subchapter G of Chapter 1 of Title 14 of the Federal Code of Regulations whose firefighters are trained and certified by the State Fire Marshal as meeting the standards of Fire Control 5 and Section 139.319 of Title 14 of the Federal Code of Regulations.

(viii) Fire and rescue services coordinators who work for the Office of Emergency Services. For purposes of this clause, "fire and rescue services coordinators" means coordinators with any of the following job classifications: coordinator, senior coordinator, or chief coordinator.

(C) A covered worker who does not satisfy either of the criteria in subparagraph (A) or (B) is entitled to an amount of COVID-19 supplemental paid sick leave as follows:

(i) If the covered worker has a normal weekly schedule, the total number of hours the covered worker is normally scheduled to work for the hiring entity over two weeks.

(ii) If the covered worker works a variable number of hours, 14 times the average number of hours the covered worker worked each day for the hiring entity in the six months preceding the date the covered worker took COVID-19 supplemental paid sick leave. If the covered worker has worked for the hiring entity over a period of fewer than six months but more than 14 days, this calculation shall instead be made over the entire period the covered worker has worked for the hiring entity.

(iii) If the covered worker works a variable number of hours and has worked for the hiring entity over a period of 14 days or fewer, the total number of hours the covered worker has worked for that hiring entity.

(D) The total number of hours of COVID-19 supplemental paid sick leave to which a covered worker is entitled pursuant to subparagraph (A), (B), or (C) shall be in addition to any paid sick leave that may be available to the covered worker under Section 246.

(E) A covered worker may determine how many hours of COVID-19 supplemental paid sick leave to use, up to the total number of hours to which the covered worker is entitled pursuant to subparagraph (A), (B), or (C). The hiring entity shall make COVID-19 supplemental paid sick leave

available for immediate use by the covered worker, upon the oral or written request of the worker to the hiring entity.

(F) A hiring entity is not required to provide a covered worker more than the total number of hours of COVID-19 supplemental paid sick leave to which the covered worker is entitled pursuant to subparagraph (A), (B), or (C).

(3) (A) Each hour of COVID-19 supplemental paid sick leave shall be compensated at a rate equal to the highest of the following:

(i) The covered worker's regular rate of pay for the covered worker's last pay period, including pursuant to any collective bargaining agreement that applies.

(ii) The state minimum wage.

(iii) The local minimum wage to which the covered worker is entitled.

(B) Notwithstanding subparagraph (A), a covered worker who is entitled to an amount of COVID-19 supplemental paid sick leave under subparagraph (B) of paragraph (2), shall be compensated for each hour of COVID-19 supplemental paid sick leave at the regular rate of pay to which the worker would be entitled as if the worker had been scheduled to work those hours, pursuant to existing law or an applicable collective bargaining agreement.

(C) Notwithstanding subparagraph (A) or (B), a hiring entity shall not be required to pay more than five hundred eleven dollars ($511) per day and five thousand one hundred ten dollars ($5,110) in the aggregate to a covered worker for COVID-19 supplemental paid sick leave taken by the worker.

(4) A hiring entity shall not require a covered worker to use any other paid or unpaid leave, paid time off, or vacation time provided by the hiring entity to the covered worker before the covered worker uses COVID-19 supplemental paid sick leave or in lieu of COVID-19 supplemental paid sick leave.

(c) Notwithstanding subdivision (b), if a hiring entity already provides a covered worker with a supplemental benefit, such as supplemental paid leave, that is payable for the reasons listed in paragraph (1) of subdivision (b) and that would compensate the covered worker in an amount equal to or greater than the amount of compensation for COVID-19 supplemental paid sick leave to which the covered worker is entitled as set forth under paragraph (3) of subdivision (b), then the hiring entity may count the hours of the other paid benefit or leave towards the total number of hours of COVID-19 supplemental paid sick leave that the hiring entity is required to provide to the covered worker under paragraph (2) of subdivision (b). For purposes of the foregoing, the other supplemental paid benefit or leave that may be counted does not include paid sick leave to which the covered worker is entitled under Section 246, but may include paid leave already provided by the hiring entity pursuant to Executive Order N-51-20 or Section 248, or supplemental paid leave provided pursuant to federal or local law for the same reasons set forth in paragraph (1) of subdivision (b). Additionally, if a hiring entity already provided supplemental paid leave between March 4, 2020, and the effective date of this section for the reasons

listed in paragraph (1) of subdivision (b) but did not compensate the covered worker in an amount equal to or greater than the amount of compensation for COVID-19 supplemental paid sick leave to which the covered worker is entitled as set forth under paragraph (3) of subdivision (b), the employer may retroactively provide supplemental pay to the covered worker to satisfy the compensation requirements under paragraph (3) of subdivision (b), in which case those hours may count towards the total number of hours of COVID-19 supplemental paid sick leave required under paragraph (2) of subdivision (b).

(d) (1) In addition to other remedies as may be provided by the laws of this state or its subdivisions, including, but not limited to, the remedies available to redress any unlawful business practice under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, the Labor Commissioner shall enforce this section. For purposes of such enforcement and to implement COVID-19 supplemental paid sick leave, this section shall apply as follows:

(A) The Labor Commissioner shall enforce this section as if COVID-19 supplemental paid sick leave constitutes "paid sick days," "paid sick leave," or "sick leave" under subdivisions (i) and (n) of Section 246, subdivisions (b) and (c) of Section 246.5, Section 247, Section 247.5, and Section 248.5. However, the requirement in subdivision (i) of Section 246 is not enforceable until the next full pay period following the date of enactment of this section.

(B) Section 249 applies to COVID-19 supplemental paid sick leave.

(C) By seven days after the effective date of this section, the Labor Commissioner shall make publicly available a model notice for purposes of Section 247. Only for purposes of COVID-19 supplemental paid sick leave, if a hiring entity's covered workers do not frequent a workplace, the hiring entity may satisfy the notice requirement of subdivision (a) of Section 247 by disseminating notice through electronic means, such as by electronic mail.

(2) For purposes of sections of this code cited in subparagraphs (A) to (C), inclusive, of paragraph (1), in construing this section all covered workers shall be considered employees and any hiring entity shall be considered an employer.

(e) The requirement to provide COVID-19 supplemental paid sick leave as set forth in this section shall take effect not later than 10 days after the date of enactment of this section.

(f) The requirement to provide COVID-19 supplemental paid sick leave as set forth in this section shall expire on December 31, 2020, or upon the expiration of any federal extension of the Emergency Paid Sick Leave Act established by the federal Families First Coronavirus Response Act (Public Law 116-127), whichever is later, except that a covered worker taking COVID-19 supplemental paid sick leave at the time of the expiration of this section shall be permitted to take the full amount of COVID-19 supplemental paid sick leave to which that covered worker otherwise would have been entitled under this section.

SEC. 5. Section 248.5 of the Labor Code is amended to read:

248.5. (a) The Labor Commissioner shall enforce this article, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate the violation or to maintain the status quo pending the completion of a full investigation or hearing through the procedures set forth in Sections 98, 98.3, 98.7, 98.74, or 1197.1, including by issuance of a citation against an employer who violates this article, and by filing a civil action. If a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the Labor Commissioner shall be the same as those set out in Section 98.74 or 1197.1, as appropriate.

(b) (1) If the Labor Commissioner, in any administrative proceeding under subdivision (a), determines that a violation of this article has occurred, they may order any appropriate relief, including reinstatement, backpay, the payment of sick days unlawfully withheld, and the payment of an additional sum in the form of an administrative penalty to an employee or other person whose rights under this article were violated.

(2) If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars ($250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars ($4,000), shall be included in the administrative penalty.

(3) If a violation of this article results in other harm to the employee or person, such as discharge from employment, or otherwise results in a violation of the rights of the employee or person, the administrative penalty shall include a sum of fifty dollars ($50) for each day or portion thereof that the violation occurred or continued, not to exceed an aggregate penalty of four thousand dollars ($4,000).

(c) Where prompt compliance by an employer is not forthcoming, the Labor Commissioner may take any appropriate enforcement action to secure compliance, including the filing of a civil action. In compensation to the state for the costs of investigating and remedying the violation, the commissioner may order the violating employer to pay to the state a sum of not more than fifty dollars ($50) for each day or portion of a day a violation occurs or continues for each employee or other person whose rights under this article were violated.

(d) An employee or other person may report to the Labor Commissioner a suspected violation of this article. The commissioner shall encourage reporting pursuant to this subdivision by keeping confidential, to the maximum extent permitted by applicable law, the name and other identifying information of the employee or person reporting the violation. However, the commissioner may disclose that person’s name and identifying information as necessary to enforce this article or for other appropriate purposes, upon the authorization of that person.

(e) The Labor Commissioner or the Attorney General may bring a civil action in a court of competent jurisdiction against the employer or other person violating this article and, upon prevailing, shall be entitled to collect legal or equitable relief on behalf of the aggrieved as may be appropriate to remedy the violation, including reinstatement, backpay, the payment of

sick days unlawfully withheld, the payment of an additional sum, not to exceed an aggregate penalty of four thousand dollars ($4,000), as liquidated damages in the amount of fifty dollars ($50) to each employee or person whose rights under this article were violated for each day or portion thereof that the violation occurred or continued, plus, if the employer has unlawfully withheld paid sick days to an employee, the dollar amount of paid sick days withheld from the employee multiplied by three; or two hundred fifty dollars ($250), whichever amount is greater; and reinstatement in employment or injunctive relief; and further shall be awarded reasonable attorney's fees and costs, provided, however, that any person or entity enforcing this article on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and reasonable attorney's fees and costs.

(f) In an administrative or civil action brought under this article, the Labor Commissioner or court, as the case may be, shall award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code.

(g) The remedies, penalties, and procedures provided under this article are cumulative.

(h) An employer shall not be assessed any penalty or liquidated damages under this article due to an isolated and unintentional payroll error or written notice error that is a clerical or an inadvertent mistake regarding the accrual or available use of paid sick leave. In reviewing for compliance with this section, the factfinder may consider as a relevant factor whether the employer, prior to an alleged violation, has adopted and is in compliance with a set of policies, procedures, and practices that fully comply with this section.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. The sum of $100,000 is hereby appropriated from the Labor and Workforce Development Fund to the Labor Commissioner for staffing resources to implement and enforce the provisions related to the COVID-19 supplemental paid sick leave and COVID-19 food sector supplemental paid sick leave.

SEC. 8. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

SEC. 9. Section 1 of this act shall become operative only if Senate Bill 1383 of the 2019–20 Regular Session is enacted and takes effect on or before January 1, 2021.

O

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE
333 West Santa Ana Boulevard, Suite 407
Santa Ana, California 92701
Direct No.: (714) 834-3303
E-Mail: leon.page@coco.ocgov.com

LEON J. PAGE
COUNTY COUNSEL

Agenda Item No. SCS- 1
December 15, 2020

MEMORANDUM

December 14, 2020

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Closed Session; Existing Litigation

In accordance with Government Code section 54954.2(b)(2), and upon a two-thirds vote of the members of the Board of Supervisors present, I am requesting that a supplemental closed session be held on Tuesday, December 15, 2020, for the Board to confer with legal counsel concerning pending litigation, *Campbell v. Don Barnes*, Orange County Superior Court case no. 30-2020-01141117, and the possible retention of outside counsel.

On Friday, December 11, 2020, the Superior Court, the Honorable Peter J. Wilson presiding, issued an Order on Writ of Habeas Corpus and Writ of Mandate requiring the Sheriff to reduce the inmate population in the Orange County Jail by 50 percent. This ruling came to the attention of the County subsequent to the meeting agenda being posted and the ruling requires the County and the Sheriff to take immediate action.

Accordingly, please prepare the Agenda Item to read:

> "CONFERENCE WITH LEGAL COUNSEL --
> EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1).
> Name of Case: *Campbell v. Don Barnes*, Orange County Superior Court case no. 30-2020-01141117
>
> RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

LJP:nr

cc: Members of the Board of Supervisors
Frank Kim, CEO

RECEIVED
2020 DEC 14 AM 11:27
CLERK OF THE
BOARD OF SUPERVISORS

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE
333 West Santa Ana Boulevard, Suite 407
Santa Ana, California 92701
Direct No.: (714) 834-3303
E-Mail: leon.page@coco.ocgov.com

LEON J. PAGE
COUNTY COUNSEL

Agenda Item No. SCS- 2
December 15, 2020

MEMORANDUM

December 14, 2020

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Closed Session; Initiation of Litigation

In accordance with Government Code section 54954.2(b)(2), and upon a two-thirds vote of the members of the Board of Supervisors present, I am requesting that a supplemental closed session be held on Tuesday, December 15, 2020, for the Board to confer with legal counsel concerning the initiation of litigation.

On Friday, December 11, 2020, the Superior Court, the Honorable Peter J. Wilson presiding, issued an Order on Writ of Habeas Corpus and Writ of Mandate requiring the Sheriff to reduce the inmate population in the Orange County Jail by 50 percent. This ruling came to the attention of the County subsequent to the meeting agenda being posted and the ruling requires the County and the Sheriff to take immediate action.

Accordingly, please prepare the Agenda Item to read:

"CONFERENCE WITH LEGAL COUNSEL –
ANTICIPATED LITIGATION – INITIATION OF LITIGATION
pursuant to Government Code section 54956.9(d)(4).
Number of Cases: One Case.

RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

Leon Page

LJP:nr

cc: Members of the Board of Supervisors
Frank Kim, CEO

RECEIVED
2020 DEC 14 AM 11:26
BOARD OF SUPERVISORS

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE
333 West Santa Ana Boulevard, Suite 407
Santa Ana, California 92701
Direct No.: (714) 834-3303
E-Mail: leon.page@coco.ocgov.com

LEON J. PAGE
COUNTY COUNSEL

Agenda Item No. SCS-3
December 15, 2020

MEMORANDUM

December 14, 2020

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Closed Session; Existing Litigation

In accordance with Government Code section 54954.2(b)(2), and upon a two-thirds vote of the members of the Board of Supervisors present, I am requesting that a supplemental closed session be held on Tuesday, December 15, 2020, for the Board to confer with legal counsel concerning pending litigation, *Delux Public Charter, LLC, d/b/a JSX Air and Jetsuitex, Inc. v. County of Orange, et al.*, filed in the United States District Court Central District of California – Southern Division, case no. 8:20-CV-02344.

On Monday, December 14, 2020, counsel for Plaintiff Delux Public Charter, LLC, notified the Office of County Counsel of the filing of the above referenced Complaint for Declaratory and Injunctive Relief and provided telephonic notice of an imminent ex parte application for a temporary restraining order. The notice and filing came to the attention of the County subsequent to the meeting agenda being posted and the ex parte notice requires the County and the Director of John Wayne Airport to take immediate action.

Accordingly, please prepare the Agenda Item to read:

> "CONFERENCE WITH LEGAL COUNSEL --
> EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1).
> Name of Case: *Delux Public Charter, LLC, d/b/a JSX Air and Jetsuitex, Inc. v. County of Orange, et al.*, United States District Court Central District of California – Southern Division, case no. 8:20-CV-02344
>
> RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

2020 DEC 14 PM 3:38
CLERK OF THE BOARD OF SUPERVISORS

LJP:jb

cc: Members of the Board of Supervisors
Frank Kim, CEO