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.

May 10, 2016

CONSENT

10. Revised Title to read:
OC Community Services - Approve agreement MA-012-16011855 with The ACE Agency, Inc. for management services for the OC Parks Summer Concert Series and other events, 5/11/16 - *5/10/17* ~~10/10/17~~ ($300,000); renewable for four additional one-year periods; authorize Purchasing Agent or authorized Deputy to execute agreement; and make California Environmental Quality Act *and other* findings - All Districts

DISCUSSION

45. Revised Title to read:
OC Public Works - Approve agreement MA-012-16011750 with LSA Associates, Inc. for architect-engineer services for environmental documentation for the OC Loop Project, 5/10/16 - 5/9/21 ($825,000); and authorize Director or designee to execute agreement - Districts 3 *and 4*

58. Revised Title to read:
County Executive Office - Approve grant applications/awards submitted *by County Executive Office and OC Public Works* in 5/10/16 grant report and other actions as recommended*; Acting as Orange County Flood Control District - adopt resolution authorizing OC Public Works Director or designee to accept and execute grant award with State Department of Water Resources for flood emergency response and monitoring program* - All Districts

59. Continued to 5/24/16, 9:30 A.M.

PUBLIC HEARING

64. Revised Title to read;
OC Community Services - Acting as the Board of Supervisors and Orange County Housing Authority - Public Hearing to consider approving ~~FY 2015-19 Consolidated Plan,~~ FY 2016-17 Annual Action Plan and FY 2015-19 *County of* Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan; approve Federal allocation of U.S. Department of Housing and Urban Development new, re-programmed and program income Community Development Block Grant; Home Investment Partnership Act; Emergency Solutions Grant funds; and State and local funds ($7,307,683); select providers and projects for public services, housing rehabilitation and public facilities and improvements (PF&I) activities; approve funding allocations up to the requested amount by providers including extension of CalWORKs funding for FY 2016-17 to Mercy House Living Centers, Inc. to continue to provide rapid rehousing services; approve model contracts for public services, housing rehabilitation, PF&I activities and model amendments; approve "License to use State Military Facility" agreement with California National Guard for Santa Ana and Fullerton Armory Facilities, FY 2016-17 ($170,190); and authorize Director or designee to sign and submit agreements *and* all ministerial administrative documents in accordance with funding availability and make any non-material changes as may be required by U.S. Department of Housing and Urban Development - All Districts

ORANGE COUNTY BOARD OF SUPERVISORS

Agenda Revisions and Supplementals

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65. Deleted

CLOSED SESSION

CS-1. Deleted

CS-2. Deleted

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

Items: 39, 46, 47 and 58

Supplemental Item(s)

S63A. **County Executive Office** - Adopt resolution approving execution and delivery of amendment to lease relating to Orange County Public Financing Authority Lease Revenue Refunding Bonds, Series 2005; and approving certain actions; **Acting as the Board of Directors of the Orange County Public Financing Authority** - Adopt resolution authorizing execution and delivery of Supplemental Indenture and Amendment to lease relating to Lease Revenue Refunding Bonds, Series 2005; and approving certain actions - All Districts

S63B. **OC Public Works - Acting as Board of Supervisors and Orange County Flood Control District** - Approve easement amendment deed from TH Harbor Venture LLC to convey additional easement area for West Washington Storm Drain; authorize Director or designee to execute related documents; and make California Environmental Quality Act and other findings - District 1

S63C. **Sheriff-Coroner** - Approve agreement MA-060-16011987 with Goodwill Industries of Orange County, California for packaging food and personal care items for jail commissary operations, 5/18/16 - 5/17/18 ($338,000); renewable for three additional one-year periods; and authorize Purchasing Agent or authorized Deputy to execute agreement - All Districts

SCS3. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Felipe Jaques v. County of Orange, Orange County Superior Case Number 30-2015-00776972

SCS4. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Lisa Olvera v. County of Orange, Workers' Compensation Appeals Board Case No. ADJ8592888

ORANGE COUNTY BOARD OF SUPERVISORS

Agenda Revisions and Supplementals

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SCS5. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION -
Pursuant to Government Code Section 54956.9(d)(2):
Number of Cases: One Case

SCS6. **County Counsel** – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION –
Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Los Angeles Engineering, Inc., etc. v. County of Orange, et al., Orange County Superior Court Case No. 30-2014-00729572-CU-BC-CJC

Document last updated: 5/6/2016 5:09 PM

Revision to ASR and/or Attachments

2016 APR 29 AM 10: 32

Date: **4/29/2016**

To: Clerk of the Board of Supervisors

CC: County Executive Office

From: **Valerie Sanchez, Assistant Clerk of the Board** VS

Re: ASR Control #: 16-000439, Meeting Date 05/10/16 Agenda Item No. # 10

Subject: **OC PARKS SUMMER CONCERT SERIES MANAGEMENT SERVICES CONTRACT**

Explanation: Due to a clerical error in preparing the agenda, the agenda title is revised as follows:

Approve agreement MA-012-16011855 with The ACE Agency, Inc. for management services for the OC Parks Summer Concert Series and other events, 5/11/16 – *5/10/17* ~~10/10/17~~ ($300,000); renewable for four additional one-year periods; authorize Purchasing Agent or authorized Deputy to execute agreement; and make California Environmental Quality Act and other findings – All Districts.

Revision to ASR and/or Attachments

Date:	**April 27, 2016**
To:	Clerk of the Board of Supervisors
CC:	County Executive Office
From:	**Mark Refowitz, Agency Director, Health Care Agency**
Re:	ASR Control #: 16-000596, Meeting Date 5/10/16 Agenda Item No. # 39
Subject:	Retroactive Purchase Order for Statistical Analysis Training

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Explanation: The Health Care Agency would like to correctly state the vendor's name, it should be stated as 'Global Knowledge Training LLC' instead of Global Knowledge Network, Inc.

☒ Revised Recommended Action(s)

Authorize the County Purchasing Agent or authorized Deputy to approve the retroactive Purchase Order for Global Knowledge Training LLC ~~Network, Inc.~~ for Statistical Analysis Training in the amount of $12,950.

☒ Make modifications to the:

☐ Subject ☒ Background Information ☒ Summary

SUMMARY:

Authorizing the retroactive Purchase Order for Global Knowledge Training LLC ~~Network, Inc.~~ for Statistical Analysis Training for Public Health epidemiology staff which supports data-driven decision making during communicable disease events.

BACKGROUND INFORMATION:

The Centers for Disease Control and Prevention (CDC) estimates that each year roughly one in six Americans get sick, 128,000 are hospitalized, and 3,000 die of foodborne diseases. Reducing the number of foodborne illness cases requires that technical staff analyzing the data collected during investigations be as proficient as possible. Survey data must be entered or imported and appropriate statistical analyses run to efficiently and effectively support data-driven decision making during each event.

In early March 2016, Public Health Services arranged for a three-day onsite training of epidemiology staff to improve proficiency in using statistical software. The training

was budgeted, however, an oversight occurred during the transition of program management and a requisition was never submitted nor approved prior to the training. The interim manager that scheduled the training believed the retiring manager had submitted the request. The error was discovered at the time the vendor submitted an invoice for payment. Payment has not been authorized and will be made upon the Board's approval.

Additional training has been provided to staff concerning the importance of verifying requisition initiation and authorization in advance of services being performed.

This Purchase Order does not include subcontractors or pass through to other providers. See Attachment B for Contract Summary Form.

The Health Care Agency requests that the Board ratify and authorize the County Purchasing Agent or authorized Deputy to approve the Purchase Order for Global Knowledge Training LLC ~~Network, Inc.~~ as referenced in the Recommended Action.

☒ Revised Attachments (attach copy of revised attachment(s))

Attachment A - Purchase Order for Global Knowledge Training LLC ~~Network, Inc~~.

Revision to ASR and/or Attachments

Date:	**May 5, 2016**
To:	Clerk of the Board of Supervisors
CC:	County Executive Office
From:	**Shane L. Silsby, Director, OC Public Works**
Re:	ASR Control #: 16-000454, Meeting Date 5/10/16 Agenda Item No. # 45
Subject:	A-E Services for Environmental Documentation for the OC Loop Project

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Explanation: This project falls within Districts 3 and 4. District 4 was not included in the Board of Supervisors District(s). Please add District 4 with District 3.

☐ Revised Recommended Action(s)

☐ Make modifications to the:

☐ Subject ☐ Background Information ☐ Summary

☐ Revised Attachments (attach copy of revised attachment(s))

Revision to ASR and/or Attachments

Date: **April 27, 2016**

To: Clerk of the Board of Supervisors

CC: County Executive Office

From: **Dylan Wright, Director, OC Waste & Recycling**

Re: ASR Control #: 16-000298, Meeting Date 5/10/16 Agenda Item No. # 46

Subject: Renewal for Landfill Gas Operations and Maintenance Services

---

Explanation: OC Waste & Recycling requests to revise Recommended Action #1 and CEQA Compliance paragraph in the Background Information as indicated below.

☒ Revised Recommended Action(s)

~~1. Find that the subject activity is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not a subject to review under CEQA.~~

1. Find that the proposed action is Categorically Exempt from the California Environmental Quality Act (CEQA), Class 1 (Existing Facilities) and Class 4 (Minor Alterations to Land), pursuant to CEQA Guidelines, Section 15301 and Section 15304.

☒ Make modifications to the:

☐ Subject ☒ Background Information ☐ Summary

~~**CEQA Compliance:** Pursuant to CEQA Guidelines Section 15378(b)(5), the recommended action is not a project as defined by CEQA. This is because the subject agreement will not cause either a direct physical change in the environment, or a foreseeable indirect physical change in the environment.~~

CEQA Compliance: The proposed action is Categorically Exempt (Class 1) from the provisions of CEQA pursuant to Section 15301 of the CEQA Guidelines, since Class 1 (Existing Facilities) consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographic features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The renewal of this contract will allow for landfill gas operation and maintenance services at North Region Landfills which is consistent with a Class 1 Categorical Exemption determination. In addition, the proposed

action is also Categorically Exempt (Class 4) from the provisions of CEQA pursuant to Section 15304 of the CEQA Guidelines, since Class 4 (Minor Alterations to Land) involves minor alterations to land. The renewal of this contract will allow for the minor alteration of lands at North Region Landfills for landfill gas operation and maintenance services which is consistent with a Class 4 Categorical Exemption determination.

☐ Revised Attachments (attach copy of revised attachment(s))

Revision to ASR and/or Attachments

Date: **April 27, 2016**

To: Clerk of the Board of Supervisors

CC: County Executive Office

From: **Dylan Wright, Director, OC Waste & Recycling**

Re: ASR Control #: 16-000398, Meeting Date 5/10/16 Agenda Item No. # 47

Subject: Approve Contract Extension for Native Plant Habitat Maintenance

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Explanation: OC Waste & Recycling requests to revise Recommended Action #1 and CEQA Compliance paragraph in the Background Information as indicated below.

☒ Revised Recommended Action(s)

~~1. Find that the subject activity is not a project within the meaning of CEQA Guidelines Section 15378 and is therefore not a subject to review under CEQA.~~

1. Find that the proposed action is Categorically Exempt from the California Environmental Quality Act (CEQA), Class 1 (Existing Facilities) and Class 4 (Minor Alterations to Land), pursuant to CEQA Guidelines, Section 15301 and Section 15304.

☒ Make modifications to the:

☐ Subject ☒ Background Information ☐ Summary

~~**CEQA Compliance:** Pursuant to CEQA Guidelines Section 15378(b)(5), the recommended action is not a project as defined by CEQA. This is because the subject agreement will not cause either a direct physical change in the environment, or a foreseeable indirect physical change in the environment.~~

CEQA Compliance: The proposed action is Categorically Exempt (Class 1) from the provisions of CEQA pursuant to Section 15301 of the CEQA Guidelines, since Class 1 (Existing Facilities) consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographic features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The extension of this contract will allow for native plant habitat management and maintenance services to occur at Central Region Landfills which is consistent with a Class 1 Categorical Exemption determination.

In addition, the proposed action is also Categorically Exempt (Class 4) from the provisions of CEQA pursuant to Section 15304 of the CEQA Guidelines, since Class 4 (Minor Alterations to Land) involves minor alterations to land. The extension of this contract will allow for the minor alteration of lands at Central Region Landfills for habitat mitigation, maintenance and monitoring which is consistent with a Class 4 Categorical Exemption determination.

☐ Revised Attachments (attach copy of revised attachment(s))

Agenda Item 58

AGENDA STAFF REPORT

ASR Control 16-000143

MEETING DATE:	05/10/16
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
Concur	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 Application – County Executive Office/Budget Office – County Victims Services (XC) Program – $2,262,560.

2. Approve Grant Award and Adopt Resolution–OC Public Works/OC Operations & Maintenance – Flood Emergency Response and Monitoring Program –$75,000.

3. 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 - Resolution
Attachment C- Award Agreement

Grants Report

DRAFT

County Executive Office/Legislative Affairs

May 10, 2016
Item No. 58
Vol. XIX No. IX

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 May 10, 2016, 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 Application – County Executive Office/Budget Office – County Victims Services (XC) Program – $2,262,560.

2. Approve Grant Award and Adopt Resolution –OC Public Works/OC Operations & Maintenance – Flood Emergency Response and Monitoring Program − $75,000.

3. Receive and File Grant 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 / ☐ AWARD AUTHORIZATION FORM

Today's Date:	April 22, 2016
Requesting Agency/Department:	County Executive Office/Budget Office
Grant Name and Project Title:	County Victim Services (XC) Program
Sponsoring Organization/Grant Source:	California Governor's Office of Emergency Services (Cal-OES)
Amount Requested/ Awarded:	$2,262,560
Application Due Date:	May 24, 2016
Board Date when Board Approved this Application:*	N/A
Awarded Funding Amount:*	N/A
Notification Date of Funding Award:*	N/A

Is this an Authorized Retroactive Grant Application/Award? (If yes, attach memo to CEO)

Does this grant require CEQA findings? No

What Type of Grant is this?	Competitive ☐	Other Type ☒	Explain: Amount eligible for each County is stated in the grant application.
County Match?	Yes ☒	No ☐	Amount: $ or % 20% Budgeted? Yes
Recurrence of Grant	New ☒	Recurrent ☐	

Explain: This is a new one-time grant opportunity resulting from legislative changes affecting the amount of funding available from the federal Victims of Crime Act (VOCA) Victim Assistance Formula Grant Program increasing from $745M to $2.36B in 2015. As the level of funding is unknown for future years, the State is offering one-time grant opportunities to expend awarded amounts over the period of July 1, 2016 to June 30, 2018.

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.

Grant funds will be used to address the gaps or needs of the victims of crimes as identified by the mandated steering committee. The main purpose is to support eligible crime victim assistance programs that 1) respond to the emotional and physical needs of crime victims; 2) help primary and secondary victims of crimes to stabilize their lives after a victimization; 3) help victims to understand and participate in the criminal justice system; and 4) provide victim with a measure of safety and security.

Grant funds will be allocated to contract community-based organizations and qualified expenditures in Probation, District Attorney's Office, Social Services Agency, and the Health Care Agency to develop and oversee the following crime victim assistance programs: 1) Crisis Response Coordination; 2) Assistance with Criminal Justice and other Legal Proceedings; 3) Expand Special Mental Health Services; 4) Restorative Justice; 5) Emergency Housing Assistance; and 6) Enhance Training Opportunities.

The 20% match requirement will be fulfilled by staff time, volunteers and the use of County space.

Board Resolution/Special Instructions Include requirement for a Board Resolution or authorization to accept the grant award without further Board action. Provide language for Resolution, and the name of County Counsel staff who reviewed the language/ *or County Counsel who have reviewed other documents. Please specify.

Authorize the CFO, or her designee, to sign all necessary application documents required for submission of the application and supporting documentation to Cal OES.

Will the grant/program create new part or full-time positions?	No new positions are needed.
Contact:	List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.
Kim Engelby kimberly.engelby@ocgov.com (714) 834-7487	

☐ GRANT APPLICATION / ☒ AWARD AUTHORIZATION FORM

Today's Date:	Request to be on Board of Supervisor Meeting: May 10, 2016
Requesting Agency/Department:	OC Public Works/OC Operations & Maintenance
Grant Name and Project Title:	Flood Emergency Response Projects Program – Statewide Grant Round 2; Flood Emergency Response and Monitoring Program
Sponsoring Organization/Grant Source:	State of California, Department of Water Resources
Amount Requested/ Awarded:	$505,318.00
Application Due Date:	February 9, 2015
Board Date when Board Approved this Application:*	March 3, 2015
Awarded Funding Amount:*	$75,000
Notification Date of Funding Award:	April 21, 2016

Is this an Authorized Retroactive Grant Application/Award? (If yes, attach memo to CEO) No

Does this grant require CEQA findings? No

What Type of Grant is this?	Competitive ☒	Other Type ☐	Explain:
County Match?	Yes ☒	No ☐	Amount: $ or % $362,720 Budgeted? Yes
Recurrence of Grant	New ☒	Recurrent ☐	

Explain: The total cost to purchase monitoring equipment is $437,720. This grant award will fund $75,000 of the purchase. OC Operations & Maintenance will use budgeted funds to cover the remaining cost.

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.

This grant award will be used to purchase equipment for the OC Operations & Maintenance Flood Emergency Response and Monitoring Program. A wireless flood control monitoring system will enable OC Public Works staff to remotely monitor rising water levels, erosion concerns or damaging flooding via the use of remote site cameras positioned in designated regions along Orange County flood control channels. Staff will be able to monitor activity at multiple locations on any wireless device including phones, tablets or lap top computers.

Board Resolution/Special Instructions:

On behalf of the Orange County Flood Control District,

1. Authorize the OC Public Works Director, or designee, to accept the grant award administered by the State of California, Department of Water Resources.
2. Authorize the OC Public Works Director, or designee, to sign the attached agreement with the State of California, Department of Water Resources.

Will the grant/program create new part or full-time positions? No new positions are required for the grant.

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

Sue Stoffel, OC Operations & Maintenance, 714/955-0241, sue.stoffel@ocpw.ocgov.com
Eileen DePuy, Grant Coordinator, OC Public Works, 714/955-0255, eileen.depuy@ocpw.ocgov.com

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

May 10, 2016

WHEREAS, the County of Orange acting on behalf of the Orange County Flood District desires to increase the efficiency, effectiveness and safety of all Flood Emergency Response Projects; and

WHEREAS, OC Public Works seeks innovative solutions to streamline emergency services to the Orange County community; and

WHEREAS, on March 3, 2015, this Board authorized OC Public Works to submit a grant application to the State of California, Department of Water Resources for funding to improve OC Public Works flood emergency response; and

WHEREAS, the Department of Water Resources has elected to partially fund a wireless flood control monitoring system identified on the OC Public Works' Flood Emergency Response Projects – Statewide Grant Round 2 grant application; and

WHEREAS, a wireless flood control monitoring system will enable OC Public Works staff to remotely monitor rising water levels, erosion concerns or damaging flooding via the use of remote site cameras positioned in designated regions along Orange County flood control channels; and

WHEREAS, this wireless flood control monitoring system will provide OC Public Works staff the opportunity to monitor activity at multiple locations on any wireless device including phones, tablets or lap top computers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Orange, acting on behalf of the Orange County Flood Control District, hereby authorizes the Director of OC Public Works, or designee, to accept the grant award administered by the State of California, Department of Water Resources and authorize the OC Public Works Director, or designee, to sign the attached agreement with the State of California, Department of Water Resources.

Contract No. 4600011359

STATE OF CALIFORNIA
THE NATURAL RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
AGREEMENT BETWEEN THE STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES AND
ORANGE COUNTY PUBLIC WORKS
UNDER THE FLOOD EMERGENCY RESPONSE PROJECTS –
STATEWIDE GRANT ROUND 2

THIS AGREEMENT, made in quadruplicate and effective as of the last date of the required signatures of the parties, is entered into by and between the Department of Water Resources of the State of California (hereinafter called the State), and Orange County Public Works (hereinafter called the Grantee) for the Flood Emergency Response Projects – Statewide Grant Round 2.

The State and the Grantee agree as follows:

SECTION 1 PURPOSE OF AGREEMENT

This Agreement is made by and between the State and the Grantee to assist in financing a Flood Emergency Response Projects – Statewide Grant Round 2 project pursuant to Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Section 75032 of Chapter 3 of Division 43 of the Public Resources Code).

Grant funds may be used only as provided in this Agreement for such Eligible Project Costs as set forth in the project description and budget, copies of which are incorporated herein by this reference and set forth in Exhibit A, Scope of Work and Exhibit B, Budget which describe tasks to be accomplished and costs associated with those tasks under this Agreement.

SECTION 2 SCOPE AND TERM OF AGREEMENT

This Agreement shall remain in effect for three (3) years from the date of execution. The date of execution shall be the last date of the required signatures of the parties to the Agreement. Certain activities specified in this Agreement have a different term such as maintenance responsibilities of the Grantee which continue in perpetuity.

This Agreement incorporates:
Exhibit A – Scope of Work
Exhibit B – Budget
Exhibit C – Schedule
Exhibit D – Standard Terms
Exhibit E – Planned Maintenance Activities

SECTION 3 PROJECT SCHEDULE AND COSTS

Grantee shall diligently perform or cause to be performed all project work in accordance with the Project Schedule set forth in Exhibit C or as otherwise approved by the State in writing.

The total project costs (identified in Exhibit B) are estimated to be $75,000.

SECTION 4 STATE GRANT AND ELIGIBLE PROJECT COSTS

Pursuant to the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84), and subject to the availability of funds, including any mandates from the Department of Finance, the Pooled Money Investment Board, or any other State authority, the State will reimburse the Grantee, in accordance with the terms of this Agreement, in an amount equal to the Grantee's eligible expenditures for this project not to exceed $75,000 as the State Share, as identified in Exhibit B, Budget. The State will not make payments of any kind until funding is made available by the State Treasurer, after allocation decisions are made by the Pooled Money Investment Board and Department of Finance.

Grantee shall use State funds received only for Eligible Project Costs which are incurred only during the effective term of this agreement, with the exception of approved reimbursable application costs. Invoices eligible for reimbursement shall reflect work performed after the effective date and before the termination date of the agreement. Work performed before the effective date, or after the termination date, of the agreement is not eligible for reimbursement under this funding agreement.

Eligible Project Costs include only the reasonable and necessary actual costs directly related to the Scope of Work (Exhibit A). Travel expenses will not be reimbursed unless travel is preapproved by the State Project Manager.

SECTION 5 GRANTEE'S COST SHARE AMOUNT

The Grantee agrees to fund the difference, if any, between the actual project cost and the State Grant (Section 4).

SECTION 6 INCORPORATION OF STANDARD TERMS AND GRANTEE COMMITMENTS

In addition to Exhibits A, B, and C this Agreement by this reference incorporates Exhibit D, Standard Terms, and Exhibit E, Planned Maintenance Activities. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations and statements made by the Grantee in the Application, documents, amendments and communications filed in support of its request for financing.

SECTION 7 METHOD OF PAYMENT

The Grantee shall submit invoices and supporting documentation on a quarterly basis. All payments will be made to the Grantee upon receipt of an invoice by the State of California, Department of Water Resources, 3310 El Camino Avenue, Room 200, Sacramento, California 95821, to the attention of John Paasch, Project Manager for the State. Invoices should include contract number and work plan element identification.

The Grantee shall meet all conditions for disbursement of money under this Agreement, including the provisions of the Conditions for Disbursement which is located in Exhibit D. Failure by Grantee to comply may, at the option of the State, result in termination of the Agreement.

SECTION 8 PROGRESS REPORTS AND STATEMENTS OF COSTS

The Grantee shall submit quarterly progress reports, starting with the end of the first complete calendar quarter after date of execution, describing the status of the Project and containing a statement of costs to the State. The submittal and approval by the State of these reports is a requirement for continued disbursement of State Grant funds. Progress reports shall include a record of expenditures, description of project activities since the previous report, status of the project relative to the scope of work, progress schedule and key issues that must be resolved. Additionally, if the Grantee is aware of any anticipated problems, obstacles, or issues that could affect the project budget, schedule, or scope of work, they should be discussed in the progress reports.

MODIFICATION OF OVERALL SCOPE OF WORK.

At the request of the Grantee, the State may at its sole discretion approve non-material changes to the portions of Exhibit A which concern the budget and schedule without formally amending this Agreement. Non-material changes with respect to the budget are changes that only result in reallocation of the budget and will not result in an increase in the amount of the State Funding Commitment set forth in Section 4. Non-material changes with respect to the Project schedule are changes that will not extend the term of this Agreement which is set forth in section 2 of the Agreement. Requests for non-material changes to the budget and schedule must be submitted by the Grantee to the State in writing and are not effective unless and until specifically approved by the State's Program Manager in writing.

The Grantee may include a contingency fund in the budget provided in Exhibit A, of up to ten percent (10%) of the overall budget. If there is a cost overrun with respect to an individual contract item or task of no more than 20% of the original estimate for that item or task, the State's Program Manager may authorize the use of any available contingency fund or reallocation of unexpended funds for other individual contract items or tasks. If there is a cost overrun or decrease in allocated funds that exceeds 20% of the amount originally estimated for an individual contract item or task, the Grantee and the State must agree to amend the Agreement.

If the Grantee and the State agree to a material change with respect to the Overall Work Plan that decreases the Project Cost in Section 4, the parties agree there shall be proportionate reduction in the limit on State funds set forth in Section 4.

If the State Program Manager approves a material change pursuant to the provisions of this Section, the Grantee shall include information regarding the material change in the reports required by this Agreement. Within a reasonable time after the material change is approved, the State and the Grantee shall also formally amend this Agreement to reflect the material change.

SECTION 9 FINAL REPORTS

Upon project completion or termination, the Grantee shall submit a Final Report describing project activities and a report of expenditures (Final Financial Report) for the State's review and comment. The Final Report and Final Financial Report shall both be submitted within sixty (60) days of the project completion or termination. The Final Report shall describe the results of the project's activities, and include photographs of pre-project conditions and of the work completed.

For any construction activity undertaken pursuant to and funded by this agreement, upon completion of the project the Grantee shall provide for a final inspection and a written certification by a California Registered Civil Engineer that the project has been completed in accordance with final plans and specifications and any modifications thereto. Such certification shall be submitted to the State with a copy of the final report of project expenditures required in the paragraph below. The Grantee shall keep on file, for the useful life of the project, as built plans and specifications for the project. Such documents shall be made available for inspection by the State upon reasonable notice.

The Final Financial Report documenting total project expenditures shall be submitted by the Grantee at the same time as the Final Report.

SECTION 10 RELATIONSHIPS OF PARTIES

The Grantee, its contractors, subcontractors, and their respective agents and employees required for performing any work under this Agreement shall act in an independent capacity and not as officers, employees, or agents of the State. Grantee is solely responsible for planning, design, construction, maintenance, and operation of the activity undertaken pursuant to and funded by this Agreement. Any review or approval by the State is solely for the purpose of proper administration of State funding and shall not be deemed to relieve or restrict Grantee's responsibility for its work.

SECTION 11 PERMITS, LICENSES, APPROVALS AND LEGAL OBLIGATIONS

The Grantee shall be responsible for obtaining any and all permits, licenses and approvals required for performing any work under this Agreement, including those necessary for planning and implementing the Project. The Grantee shall be responsible for complying with all applicable federal, State, and local laws, rules or regulations

affecting any such work, specifically including, but not limited to, environmental, labor, procurement and safety laws, rules, regulations, and ordinances.

Without limiting the foregoing, Grantee shall keep informed of and take all measures necessary to ensure compliance with the California Labor Code requirements, including but not limited to Section 1720 *et seq*. of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5), and payment of prevailing wages for work done under this Agreement, including any payments to the Department of Industrial Relations under California Labor Code Section 1771.3.

Work that is subject to the California Environmental Quality Act (CEQA) and funded under this Agreement shall not proceed until documents that satisfy the CEQA process are received by the State Project Manager and the State has completed its CEQA compliance. Work funded under this Agreement that is subject to a CEQA document shall not proceed until and unless approved by the State Project Manager. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. Once CEQA documentation has been completed, the State will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations, or other mitigation.

SECTION 12 GRANTEE'S RESPONSIBILITIES FOR WORK

Grantee shall be responsible for work and for persons or entities engaged in work, including, but not limited to, subcontractors, suppliers, and providers or services. Grantee shall give personal supervision to any work required under this Agreement or employ a competent representative, satisfactory to State, with the authority to act for Grantee. Grantee or its authorized representative shall be present while work is in progress. Grantee shall give attention to the fulfillment of the Agreement and completion of the Project, and shall keep work within Scope of Work, project schedule and budget. The Grantee shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to bid disputes and payment disputes with the Grantee's contractors and subcontractors. The State will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work.

SECTION 13 PERFORMANCES AND ASSURANCES

Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Grantee in the application, documents, amendments, and communications filed in support of its request for California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) financing.

Grantee agrees to faithfully and expeditiously perform or cause to be performed all Project work as described in the Scope of Work and to apply State funds received only to the Eligible Project Costs in accordance with applicable provisions of the law.

DEFAULT PROVISIONS AND DISPUTE RESOLUTION

Grantee shall be in default under this Agreement if any of the following occur:

a) Substantial breaches of this Agreement, or any supplement or amendment to it, or any other agreement between Grantee and State evidencing or securing Grantee's obligations; or

b) Making any false warranty, representation, or statement with respect to this Agreement or the application filed to obtain this Agreement; or

c) Failure to make any remittance required by this Agreement.

Should an event of default occur, State shall provide notice of default to the Grantee and shall give Grantee ten or more days to cure the default from the date the notice of default is sent via first-class mail to the Grantee. If the Grantee fails to cure the default within the time prescribed by the State, State may do any or all of the following:

a) Declare the funds be immediately repaid, with interest, which shall be equal to State of California general obligation bond interest rate in effect at the time of default;

b) Terminate any obligation to make future payments to the Grantee;

c) Terminate the Agreement; and

d) Take any other action that it deems necessary to protect its interests, including but not limited to completing the work, and requiring the Grantee to pay the cost of the work, less the State cost share.

SECTION 14 PROJECT OFFICIALS AND NOTICES

The Project Manager for the State is John Paasch, Chief, Flood Operations Branch, Division of Flood Management, Department of Water Resources.

The State's Program Manager shall be the Chief of the Division of Flood Management, Department of Water Resources. The State's Program Manager shall be the State's representative and shall have the authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Agreement. The State's Program Manager may delegate any task to the State's Project Manager.

The Grantee Project Manager shall be Lori Hanson. The Grantee Project Manager shall be the Grantee's representative for the administration of the Agreement and shall have full authority to act on behalf of the Grantee, including authority to execute all payment requests. All communications given to the Project Manager shall be as binding as if given to the Grantee.

Either party may change its representative upon written notice to the other party. Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Agreement shall be in writing to the Project Manager.

Notices required to be given to the State in writing by the Grantee under this Agreement shall be sent to:

State of California
Department of Water Resources
Flood Operations Branch
3310 El Camino Avenue, Room 200
Sacramento, CA 95821

Notices required to be given to the Grantee in writing by the State under this Agreement shall be sent to:

Lori Hanson
Administrative Manager
OC Public Works
2301 N. Glassell
Orange, CA 92865

A change of address for delivery or notice may be made by either party by written notice of such change of address to the other party.

Notices may be sent by any of the following means: delivery in person, by certified U.S. Mail, postage prepaid, by "overnight" delivery service or, electronic transmission followed by submittal of a hard copy.

SECTION 15 MAINTENANCE OF PROPERTY IMPROVED

Grantee agrees to use, manage, and maintain the property developed, rehabilitated, or restored with the grant funds provided in this Agreement consistent with the purposes of the program and is required to continue in perpetuity or until deemed no longer necessary by the State. Specific maintenance activities are outlined in Exhibit E, Planned Maintenance Activities. The Grantee or their successors may, with the approval of the State, transfer this responsibility to use, manage, and maintain the property as discussed in Exhibit D, Standard Terms: Easements. Such title transfer will occur in a way that binds the new owner to the same obligations.

IN WITNESS HEREOF, the following authorized representatives have executed this Agreement as of the date first above written and approved as to Legal form and sufficiency.

ORANGE COUNTY
PUBLIC WORKS

By: _____
Shane Silsby
Director, OC Public Works

Date: _____

Approved as to Legal Form
and Sufficiency

By: _____
Eric Devine
County Counsel

Date: _____

STATE OF CALIFORNIA
DEPARTMENT OF WATER
RESOURCES

By: _____
Jon Ericson, Chief
Hydrology and Flood Operations Office

Date: _____

Approved as to Legal Form
and Sufficiency

By: _____
Robin Brewer
Assistant Chief Counsel

Date: _____

Attachments

List of Exhibits:

Exhibit A – Scope of Work

Exhibit B – Budget

Exhibit C – Schedule

Exhibit D – Standard Terms

Exhibit E – Planned Maintenance Activities

Exhibit A
Project Scope of Work

Orange County Public Works Emergency Response and Flood Monitoring Program

The Orange County (OC) Public Works Emergency Response and Flood Monitoring Program contains three major components: planning, training, and monitoring equipment. Each will improve the effectiveness of OC Public Works, Operations and Maintenance emergency flood response operations. First, a Flood Monitoring Plan will be developed to specify the procedures on operating live-stream digital data. Next, a Flood Safety Plan will be developed utilizing the State of California Department of Water Resources guidelines to define facilities and detail services. To clarify goals and objectives, training and hands-on exercises will be developed for operations personnel regarding the Flood Safety and Flood Monitoring Plans. Last, remote site monitoring cameras will be procured to remotely view flood-prone areas for water flow, erosion, flooding, and water levels. Analysis of real-time visuals will aid the Orange County Public Works Department Operations Center on resource deployment during heavy rains. In addition, information collected will be relayed to local managers, emergency management agencies, law enforcement, and operational area coordinators to provide an all-around picture of regional flooding issues. The planning, coordination, and implementation of this program will be led by OC Public Works, Operations and Maintenance with crucial input from OC Flood and OC Environmental Services. The adopted plan will be incorporated into the OC Public Works Storm Operations Manual which is part of the overall “Prepare OC: County of Orange Incident Preparedness, Response and Recovery Program”.

OC Public Works will pay for Tasks 1 and 2 and will not request reimbursement from the California Department of Water Resources (DWR) for work completed on these tasks. However, Tasks 1 and 2 are required elements to receive funding for Task 3, so they are included in this scope of work to support Task 3. OC Public Works will pay for Tasks 3.1 and 3.2 and will not request reimbursement from DWR for work completed on these tasks.

Task 1: Flood Monitoring and Flood Safety Plans

Sub-Task 1.1 – Flood Monitoring Plan: Develop remote site monitoring plan to specify the policies and procedures on operating live-stream digital monitoring equipment. This includes camera software, equipment specifications, routine preventative maintenance, camera locations and privacy policies.

Sub-Task 1.1 Deliverables:

a) Completed Flood Monitoring Plan

By whom completed: ***OC Public Works Staff***

Sub-Task 1.2 – Flood Safety Plan: Create a comprehensive Flood Safety Plan utilizing the State of California, Department of Water Resources Framework. This includes merging elements of the Operational Area Hazard Mitigation Plan, Flood Monitoring Plan and OC Public Works Storm Operations Manual. The plan will include the minimum content requirements of California Water Code Section 9650:

1. A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.
2. A levee patrol plan for high water situations.
3. A flood-fight plan for the period before State or federal agencies assume control over the flood fight.
4. An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.
5. A floodwater removal plan.
6. A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be essential service providers:
    a. The building is located outside an area that may be flooded.
    b. The building is designed to be operable shortly after the floodwater is removed.

The safety plan shall be integrated into any other local agency emergency plan and coordinated with the State emergency plan.

Sub-Task 1.2 Deliverables:

a) Completed Flood Safety Plan

By whom completed: ***OC Public Works Staff***

Summary of Task 1 Deliverables:

1.1 Completed Flood Monitoring Plan
1.2 Completed Flood Safety Plan

Task 2: Multi-Division Training and Exercise

Sub-Task 2.1 – Multi-Division Training and Exercise: Based on the newly adopted Flood Monitoring and Flood Safety Plans, OC O&M will develop training sessions with hands-on exercises for multi-division staff. This is to familiarize staff on the proper operations of monitoring equipment, long-term goals, emergency response practices, and safety protocols.

Sub-Task 2.1 Deliverables:

a) Training and exercise agenda
b) Participant lists

By whom completed: ***OC Public Works Staff***

Summary of Task 2 Deliverables:

2.1 Training and exercise agenda
Participant lists

Task 3: Procurement of Wireless Web Cameras

***Sub-Task 3.1 – Trial Camera Installation*:** Purchase one solar-powered, wireless web camera to test operations, software, hardware, ease of installation, and functionality.

Sub-Task 3.1 Deliverables:

a) Summary of camera installation, including photos and test results

By whom completed: ***OC Public Works Staff***

***Sub-Task 3.2 – Create Request for Proposal (RFP)*:** Based on results of trial camera, create written Request for Proposal (RFP) with camera specifications for the purchase of 8 to10 cameras. Send RFP to OC Procurement to complete purchase order and request for bids.

Sub-Task 3.2 Deliverables:

a) Copy of Request for Proposal

By whom completed: ***OC Public Works Staff***
OC Administrative Services Staff

Sub-Task 3.3 – Purchase and Install Web Cameras: Complete bid process, purchase, and install cameras.

Sub-Task 3.3 Deliverables:

a) Copies of equipment specifications, shipping slips, and invoices
b) Post installation report presenting all cameras with map(s) showing the locations and camera angles, photos of installation, and equipment list as evidence of final installation of cameras
c) Copies of environmental documentation required for camera installation, as necessary

By whom completed: ***OC Public Works Staff***
OC Administrative Services Staff

Summary of Task 3 Deliverables:

3.1 Summary of trial camera installation, including photos and test results
3.2 Copy of Request for Proposal
3.3 Copies of equipment specifications, shipping slips and invoices
Post installation report presenting all cameras with map(s) showing the locations and camera angles, photos, and equipment list as evidence of final installation of cameras
Copies of environmental documentation required for camera installation, as necessary

Exhibit B
Project Budget

Orange County Public Works Emergency Response and Flood Monitoring Program

The following is a breakdown of costs for significant steps, tasks, and subtasks for this project.

	Matched Funding	DWR Authorized Funding	Total Funding
Step 1) Planning & Coordination:			
Task 1: Flood Monitoring and Flood Safety Plans	**$32,280**	**$0**	**$32,280**
Subtask 1.1: Completed Flood Monitoring Plan	$6,456	$0	$6,456
Subtask 1.2: Completed Flood Safety Plan	$25,824	$0	$25,824
Step 2) Training & Exercises:			
Task 2: Multi-Division Training and Exercise	**$16,140**	**$0**	**$16,140**
Subtask 2.1: Multi-Division Training and Exercise	$16,140	$0	$16,140
Step 3) Equipment:			
Task 3: Procurement of Wireless Web Cameras	**$11,800**	**$75,000**	**$86,800**
Subtask 3.1: Trial Camera	$7,000	$0	$7,000
Subtask 3.2: Completed Request for Proposal	$4,800	$0	$4,800
Subtask 3.3: Procurement of Cameras	$0	$75,000	$75,000
Grand Total:			**$135,220**
Orange County Contribution:			**$60,220**
DWR Authorized Funding:			**$75,000**

Exhibit C
Project Schedule

Orange County Public Works Emergency Response and Flood Monitoring Program

Project Planner

OC Public Works Emergency Response and Flood Monitoring Program

Period Highlight 1

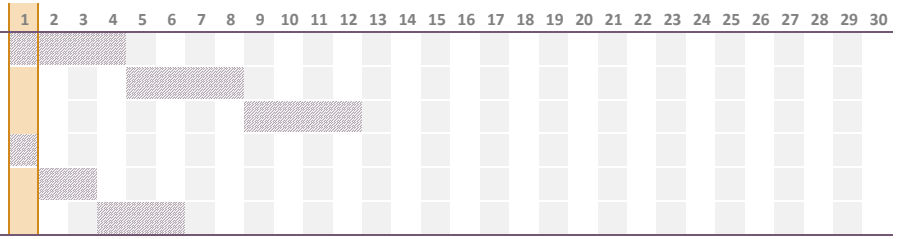
Plan | Actual | % Complete | Actual (beyond plan) | % Complete (beyond plan)

Note: Period equals two weeks

Anticipated start date: 1 June 2016

ACTIVITY	PLAN START	PLAN DURATION	ACTUAL START	ACTUAL DURATION	PERCENT COMPLETE
1.1 Flood Monitoring Plan	1	4	0	0	0%
1.2 Flood Safety Plan	5	4	0	0	0%
2.1 Multi-Division Training	9	4	0	0	0%
3.1 Trial Camera	1	1	0	0	0%
3.2 Request for Proposal	2	2	0	0	0%
3.3 Procurement of Cameras	4	3	0	0	0%

PERIODS



NOTE: Schedule will be adjusted to start of execution date of the funding agreement

STANDARD TERMS

1. ACCOUNTING AND DEPOSIT OF GRANT DISBURSEMENT:

   a) Separate Accounting of State Grant Disbursements and Interest Records: The Grantee shall account for the money disbursed pursuant to this Agreement separately from all other Grantee's funds. The Grantee shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. The Grantee shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. The Grantee shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State at any and all reasonable times.

   b) Disposition of Money Disbursed: All money disbursed pursuant to this Agreement shall be deposited, administered, and accounted for pursuant to the provisions of applicable law.

   c) Remittance of Unexpended Funds: The Grantee, within a period of sixty (60) days from the final disbursement from the State to the Grantee of State Grant funds, shall remit to the State any unexpended funds that were disbursed to the Grantee under this Agreement and were not needed to pay Eligible Project Costs.

   d) Interim and Final Audits: The State reserves the right to conduct an audit at any time between the execution of this Agreement and the completion of the Project, with the costs of such audit borne by the State. After completion of the Project, the State may require the Grantee to conduct a final audit, at the State's expense.

      Pursuant to Government Code Section 8546.7, the contracting parties shall be subject to the examination and audit of the State for a period of three years after final payment under the contract. All Grantee's records and the Grantee's subcontractors related to this agreement shall be retained for at least three years after project completion.

2. ACKNOWLEDGEMENT OF CREDIT: The Grantee shall include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the Project, erecting signs at the project site, or using any data and/or information developed under the Agreement.

3. AMENDMENT: This Agreement may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in

any way contrary to applicable law. Requests by the Grantee for amendments must be in writing stating the amendment request and the reason for the request.

4. AMERICANS WITH DISABILITIES ACT: By signing this Agreement, Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

5. ANTITRUST CLAIMS: Grantee shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Grantee's contracts with other entities for acquisition of goods, and services and construction of public works with funds provided by the State under this Agreement.

6. APPROVAL: This Agreement is of no force or effect until signed by all parties to the agreement. Grantee may not submit invoices or receive payment until has all required signatures have been obtained.

7. AVAILABILITY OF FUNDS: Work to be performed under this contract is subject to availability of funds through the State's normal budget process.

8. CALIFORNIA CONSERVATION CORPS: As required in Water Code section 79038(b), Grantee shall examine the feasibility of using the California Conservation Corps or community conservation corps to accomplish the habitat restoration, enhancement and protection activities listed in the Scope of Work (Exhibit C), and shall use the services of one of these organizations whenever feasible.

9. CLAIMS DISPUTE: Any claim that the Grantee may have regarding the performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Project Manager, Department of Water Resources, within thirty (30) days of the Grantee's knowledge of the claim. Project Manager and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.

10. COMPETITIVE BIDDING AND PROCUREMENTS: Grantee shall comply with all applicable laws and regulations securing competitive bids and undertaking competitive negotiations in Grantee contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Funding Agreement.

11. CONDITIONS FOR DISBURSEMENT: The State shall have no obligation to disburse money under this Agreement unless and until the Grantee has satisfied the State that the disbursement is in accordance with the requirements of the legislation creating the funding source for the grant funds. Before engaging in site modifications to be paid for from State funds, the grantee must complete the following:

    a) For Construction Projects, the Grantee must submit to the State, final plans and specifications certified by a California Registered Civil Engineer or equivalent documentation as to compliance with the approved Project.

    b) The Grantee must submit a written statement by an authorized representative that it has obtained all necessary permits, easements, rights-of-way and approvals as may be required by other State, federal, and/or local agencies, as specified in Section 11 of this Agreement.

    c) The Grantee must demonstrate compliance with the California Environmental Quality Act and if applicable the National Environmental Policy Act by submitting copies of any environmental documents, including environmental impact reports, environmental impact statements, negative declarations, mitigation agreements, legal notices and environmental permits as may be required prior to modifying the Project site.

    d) The Grantee must demonstrate continuing availability of sufficient funds to complete the Project.

    e) The Grantee shall develop, and submit for State approval, a plan to minimize the impacts to adjacent landowners (California Water Code Section 79041, Division 26, Chapter 5, Article 2.5). This plan may require completion of a hydrologic and hydraulic study, and if so the specifications will be included in Exhibit A, the project Scope of Work.

12. CONFLICT OF INTEREST:

    a) <u>Current State Employees</u>:
    No state officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

    No state officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

b) Former State Employees:
For the two year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.

For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the twelve-month period prior to his or her leaving state service.

c) City/County/Non Profit Employees:
No employee, officer, employer or agency of the City/County/Non Profit shall participate in the selection or in the award or administration of a contract supported by State Funds if a conflict of interest, real or apparent, would be involved. The City/County/Non Profit shall comply with all applicable laws on conflict of interest including, but not limited to the following: Public Contract Code (PCC) Sections 10335.5 et seq., PCC Sections 10365.5 et seq., PCC Sections 10410 et seq., and Government Code Sections 1090 et seq., and 8100 et seq.

13. DRUG-FREE WORKPLACE CERTIFICATION: By signing this contract, the Grantee hereby certifies under penalty of perjury under the laws of the State of California that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

a) Publish a statement notifying employees, contractors and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors or subcontractors for violations.

b) Establish a Drug-Free Awareness Program to inform employees, contractors and subcontractors about all of the following:

1. The dangers of drug abuse in the workplace,
2. The Grantee's policy of maintaining a drug-free workplace,
3. Any available counseling, rehabilitation and employee assistance programs, and
4. Penalties that may be imposed upon employees, contractors or subcontractors for drug abuse violations.

c) Every employee, contractor and subcontractor who works under this Agreement:

1. Will receive a copy of the Grantee's drug-free policy statement, and
2. Will agree to abide by terms of the Grantee's statement as a condition of employment, contract or subcontract.

14. EASEMENTS: Where the Grantee acquires property in fee title or funds improvements to property already owned in fee by the Grantee using grant funds provided through this Agreement, an appropriate easement or other title restriction providing for floodplain preservation and agricultural and/or wildlife habitat conservation for the subject property in perpetuity, approved by the State, shall be conveyed to a regulatory or trustee agency or conservation group acceptable to the State. The easement or other title restriction must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived by the State.

    Where the Grantee acquires an easement under this Agreement, the grantee agrees to monitor and enforce the terms of the easement, unless the easement is subsequently transferred to another land management or conservation organization or entity with State permission, at which time monitoring and enforcement responsibilities will transfer to new easement owner.

    Failure to provide an easement acceptable to the State can result in termination of this Agreement.

15. ELIGIBLE PROJECT COSTS: Grantee shall apply State Grant funds received only to eligible project costs, as identified in Exhibit B - Budget.

16. GOVERNING LAW: This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

17. INDEMNIFICATION: Grantee shall indemnify and hold and save the State, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Project and this Agreement, including, but not limited to any claims or damages arising from the planning, design, construction, maintenance and/or operation of levee rehabilitation measures for this Project and any breach of this Agreement. Grantee shall require its contractors to name the State, its officers, agents, and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.

18. INSPECTIONS OF PROJECT BY STATE: The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Agreement. This right shall extend to any subcontracts, and the

Grantee shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Agreement with the State.

19. INSPECTIONS OF BOOKS, RECORDS AND REPORTS: During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Funding Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Funding Agreement. Failure or refusal by Grantee to comply with this provision shall be considered a breach of this Funding Agreement, and the State may withhold disbursements to Grantee or take any other action it deems necessary to protect its interests as provided in the Funding Agreement.

20. LABOR COMPLIANCE PLAN: Prior to awarding a contract for public works projects funded in whole or in part from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, or any other source of funding so requiring, the grantee shall comply with Public Resources Code Section 75075, which requires adoption and enforcement of a labor compliance program pursuant to subdivision (b) of Labor Code Section 1771.5 for application to the funded public works project. At the State's request, Grantee must promptly submit written evidence of its compliance with Labor Compliance Program requirements.

21. NONDISCRIMINATION: During the performance of this Agreement, the Grantee, it contractors, and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Govt. Code § 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et. seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code § 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

    Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Funding Agreement.

22. PROHIBITION AGAINST DISPOSAL OF PROPERTY WITHOUT STATE PERMISSION: The Grantee shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, without prior permission of the State. The Grantee shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of the Grantee to meet its obligations under this Agreement, without prior written permission of the State. The State may require that the proceeds from the disposition of any real or personal property be remitted to the State to be applied to the Grantee's indebtedness under this Agreement.

23. REIMBURSEMENT CLAUSE: If applicable, travel and per diem expenses to be reimbursed under this contract shall be the same rates the State provides for unrepresented employees in accordance with the provisions of Title 2, Chapter 3, of the California Code of Regulations.

24. SEVERABILITY: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

25. SUCCESSOR AND ASSIGNS: This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this Agreement or any part thereof, rights hereunder, or interest herein by the Grantee shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.

26. TERMINATION WITHOUT CAUSE: The State may terminate this Agreement without cause on 30 days advance written notice. The Grantee shall be reimbursed for all reasonable expenses incurred up to the date of termination.

27. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided including but not limited to reasons of default under Standard Term 28 – Termination By Grantee.

28. TERMINATION BY GRANTEE: Subject to State approval which may be reasonably withheld, Grantee may terminate this Agreement and be relieved of contractual obligations. In doing so, Grantee must provide a reason(s) for termination. Grantee must submit all progress reports summarizing accomplishments up until termination date.

29. THIRD PARTY BENEFICIARIES: The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.

30. TIMELINESS: Time is of the essence in this Agreement.

31. WITHHOLDING OF GRANT FUNDS BY STATE:

    a) Withholding Clause: The State will withhold ten percent (10%) of the funds requested by the Grantee for reimbursement of Eligible Project Costs until the Project is completed and Final Report is received. Withheld funds may be released upon completion of milestones identified in Exhibit A, the project Scope of Work.

    b) Additional Conditions for Withholding: If the State determines that the Project is not being completed substantially in accordance with the provisions of this Agreement or that the Grantee has failed in any other respect to comply substantially with the provisions of this Agreement, and if the Grantee does not remedy any such failure to the State's satisfaction, the State may withhold from the Grantee all or any portion of the State Grant commitment and take any other action that it deems necessary to protect its interests.

32. WORKERS' COMPENSATION: The Grantee affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and the Grantee affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.

Exhibit E
Maintenance Plan

Orange County Public Works Emergency Response and Flood Monitoring Program

The Department of Water Resources is not responsible for the funding or execution of any scheduled maintenance, emergency repair activities, or product updates related to equipment, plans, maps, or committees purchased or created under this grant project.

Task 1: Flood Monitoring and Flood Safety Plans

Both program plans (Flood Monitoring and Flood Safety) will be reviewed annually prior to storm season to update current contact and staffing information. Additional revisions and updates will be made as the program develops.

Task 2: Multi-Division Training and Exercise

Based on the newly adopted Flood Monitoring and Flood Safety Plans, OC Operations & Maintenance will develop training sessions with hands-on exercises for multi-division staff. Training will be conducted annually prior to storm season to update staff on any changes or revisions to the program plans.

Task 3: Procurement of Wireless Web Cameras

Routine quarterly maintenance of remote site monitoring cameras will be scheduled utilizing the MaintStar Computerized Maintenance Management System (CMMS) which tracks routine labor, equipment usage, and materials on work orders. To ensure that all equipment is well maintained, preventative maintenance and routine inspections will be standard practice on each component. This includes updating software applications, troubleshooting IT issues, consistent testing of equipment, routine cleaning, and proper storage.

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

May 10, 2016

WHEREAS, the County of Orange acting on behalf of the Orange County Flood District desires to increase the efficiency, effectiveness and safety of all Flood Emergency Response Projects; and

WHEREAS, OC Public Works seeks innovative solutions to streamline emergency services to the Orange County community; and

WHEREAS, on March 3, 2015, this Board authorized OC Public Works to submit a grant application to the State of California, Department of Water Resources for funding to improve OC Public Works flood emergency response; and

WHEREAS, the Department of Water Resources has elected to partially fund a wireless flood control monitoring system identified on the OC Public Works' Flood Emergency Response Projects – Statewide Grant Round 2 grant application; and

WHEREAS, a wireless flood control monitoring system will enable OC Public Works staff to remotely monitor rising water levels, erosion concerns or damaging flooding via the use of remote site cameras positioned in designated regions along Orange County flood control channels; and

WHEREAS, this wireless flood control monitoring system will provide OC Public Works staff the opportunity to monitor activity at multiple locations on any wireless device including phones, tablets or lap top computers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Orange, acting on behalf of the Orange County Flood Control District, hereby authorizes the Director of OC Public Works, or designee, to accept the grant award administered by the State of California, Department of Water Resources and authorize the OC Public Works Director, or designee, to sign the attached agreement with the State of California, Department of Water Resources.

STATE OF CALIFORNIA
THE NATURAL RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES
AGREEMENT BETWEEN THE STATE OF CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ORANGE COUNTY PUBLIC WORKS UNDER THE FLOOD EMERGENCY RESPONSE PROJECTS – STATEWIDE GRANT ROUND 2

THIS AGREEMENT, made in quadruplicate and effective as of the last date of the required signatures of the parties, is entered into by and between the Department of Water Resources of the State of California (hereinafter called the State), and Orange County Public Works (hereinafter called the Grantee) for the Flood Emergency Response Projects – Statewide Grant Round 2.

The State and the Grantee agree as follows:

SECTION 1 PURPOSE OF AGREEMENT

This Agreement is made by and between the State and the Grantee to assist in financing a Flood Emergency Response Projects – Statewide Grant Round 2 project pursuant to Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Section 75032 of Chapter 3 of Division 43 of the Public Resources Code).

Grant funds may be used only as provided in this Agreement for such Eligible Project Costs as set forth in the project description and budget, copies of which are incorporated herein by this reference and set forth in Exhibit A, Scope of Work and Exhibit B, Budget which describe tasks to be accomplished and costs associated with those tasks under this Agreement.

SECTION 2 SCOPE AND TERM OF AGREEMENT

This Agreement shall remain in effect for three (3) years from the date of execution. The date of execution shall be the last date of the required signatures of the parties to the Agreement. Certain activities specified in this Agreement have a different term such as maintenance responsibilities of the Grantee which continue in perpetuity.

This Agreement incorporates:
Exhibit A – Scope of Work
Exhibit B – Budget
Exhibit C – Schedule
Exhibit D – Standard Terms
Exhibit E – Planned Maintenance Activities

SECTION 3 PROJECT SCHEDULE AND COSTS

Grantee shall diligently perform or cause to be performed all project work in accordance with the Project Schedule set forth in Exhibit C or as otherwise approved by the State in writing.

The total project costs (identified in Exhibit B) are estimated to be $75,000.

SECTION 4 STATE GRANT AND ELIGIBLE PROJECT COSTS

Pursuant to the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84), and subject to the availability of funds, including any mandates from the Department of Finance, the Pooled Money Investment Board, or any other State authority, the State will reimburse the Grantee, in accordance with the terms of this Agreement, in an amount equal to the Grantee's eligible expenditures for this project not to exceed $75,000 as the State Share, as identified in Exhibit B, Budget. The State will not make payments of any kind until funding is made available by the State Treasurer, after allocation decisions are made by the Pooled Money Investment Board and Department of Finance.

Grantee shall use State funds received only for Eligible Project Costs which are incurred only during the effective term of this agreement, with the exception of approved reimbursable application costs. Invoices eligible for reimbursement shall reflect work performed after the effective date and before the termination date of the agreement. Work performed before the effective date, or after the termination date, of the agreement is not eligible for reimbursement under this funding agreement.

Eligible Project Costs include only the reasonable and necessary actual costs directly related to the Scope of Work (Exhibit A). Travel expenses will not be reimbursed unless travel is preapproved by the State Project Manager.

SECTION 5 GRANTEE'S COST SHARE AMOUNT

The Grantee agrees to fund the difference, if any, between the actual project cost and the State Grant (Section 4).

SECTION 6 INCORPORATION OF STANDARD TERMS AND GRANTEE COMMITMENTS

In addition to Exhibits A, B, and C this Agreement by this reference incorporates Exhibit D, Standard Terms, and Exhibit E, Planned Maintenance Activities. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations and statements made by the Grantee in the Application, documents, amendments and communications filed in support of its request for financing.

SECTION 7 METHOD OF PAYMENT

The Grantee shall submit invoices and supporting documentation on a quarterly basis. All payments will be made to the Grantee upon receipt of an invoice by the State of California, Department of Water Resources, 3310 El Camino Avenue, Room 200, Sacramento, California 95821, to the attention of John Paasch, Project Manager for the State. Invoices should include contract number and work plan element identification.

The Grantee shall meet all conditions for disbursement of money under this Agreement, including the provisions of the Conditions for Disbursement which is located in Exhibit D. Failure by Grantee to comply may, at the option of the State, result in termination of the Agreement.

SECTION 8 PROGRESS REPORTS AND STATEMENTS OF COSTS

The Grantee shall submit quarterly progress reports, starting with the end of the first complete calendar quarter after date of execution, describing the status of the Project and containing a statement of costs to the State. The submittal and approval by the State of these reports is a requirement for continued disbursement of State Grant funds. Progress reports shall include a record of expenditures, description of project activities since the previous report, status of the project relative to the scope of work, progress schedule and key issues that must be resolved. Additionally, if the Grantee is aware of any anticipated problems, obstacles, or issues that could affect the project budget, schedule, or scope of work, they should be discussed in the progress reports.

MODIFICATION OF OVERALL SCOPE OF WORK.

At the request of the Grantee, the State may at its sole discretion approve non-material changes to the portions of Exhibit A which concern the budget and schedule without formally amending this Agreement. Non-material changes with respect to the budget are changes that only result in reallocation of the budget and will not result in an increase in the amount of the State Funding Commitment set forth in Section 4. Non-material changes with respect to the Project schedule are changes that will not extend the term of this Agreement which is set forth in section 2 of the Agreement. Requests for non-material changes to the budget and schedule must be submitted by the Grantee to the State in writing and are not effective unless and until specifically approved by the State's Program Manager in writing.

The Grantee may include a contingency fund in the budget provided in Exhibit A, of up to ten percent (10%) of the overall budget. If there is a cost overrun with respect to an individual contract item or task of no more than 20% of the original estimate for that item or task, the State's Program Manager may authorize the use of any available contingency fund or reallocation of unexpended funds for other individual contract items or tasks. If there is a cost overrun or decrease in allocated funds that exceeds 20% of the amount originally estimated for an individual contract item or task, the Grantee and the State must agree to amend the Agreement.

If the Grantee and the State agree to a material change with respect to the Overall Work Plan that decreases the Project Cost in Section 4, the parties agree there shall be proportionate reduction in the limit on State funds set forth in Section 4.

If the State Program Manager approves a material change pursuant to the provisions of this Section, the Grantee shall include information regarding the material change in the reports required by this Agreement. Within a reasonable time after the material change is approved, the State and the Grantee shall also formally amend this Agreement to reflect the material change.

SECTION 9 FINAL REPORTS

Upon project completion or termination, the Grantee shall submit a Final Report describing project activities and a report of expenditures (Final Financial Report) for the State's review and comment. The Final Report and Final Financial Report shall both be submitted within sixty (60) days of the project completion or termination. The Final Report shall describe the results of the project's activities, and include photographs of pre-project conditions and of the work completed.

For any construction activity undertaken pursuant to and funded by this agreement, upon completion of the project the Grantee shall provide for a final inspection and a written certification by a California Registered Civil Engineer that the project has been completed in accordance with final plans and specifications and any modifications thereto. Such certification shall be submitted to the State with a copy of the final report of project expenditures required in the paragraph below. The Grantee shall keep on file, for the useful life of the project, as built plans and specifications for the project. Such documents shall be made available for inspection by the State upon reasonable notice.

The Final Financial Report documenting total project expenditures shall be submitted by the Grantee at the same time as the Final Report.

SECTION 10 RELATIONSHIPS OF PARTIES

The Grantee, its contractors, subcontractors, and their respective agents and employees required for performing any work under this Agreement shall act in an independent capacity and not as officers, employees, or agents of the State. Grantee is solely responsible for planning, design, construction, maintenance, and operation of the activity undertaken pursuant to and funded by this Agreement. Any review or approval by the State is solely for the purpose of proper administration of State funding and shall not be deemed to relieve or restrict Grantee's responsibility for its work.

SECTION 11 PERMITS, LICENSES, APPROVALS AND LEGAL OBLIGATIONS

The Grantee shall be responsible for obtaining any and all permits, licenses and approvals required for performing any work under this Agreement, including those necessary for planning and implementing the Project. The Grantee shall be responsible for complying with all applicable federal, State, and local laws, rules or regulations

affecting any such work, specifically including, but not limited to, environmental, labor, procurement and safety laws, rules, regulations, and ordinances.

Without limiting the foregoing, Grantee shall keep informed of and take all measures necessary to ensure compliance with the California Labor Code requirements, including but not limited to Section 1720 *et seq*. of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4), labor compliance programs (California Labor Code Section 1771.5), and payment of prevailing wages for work done under this Agreement, including any payments to the Department of Industrial Relations under California Labor Code Section 1771.3.

Work that is subject to the California Environmental Quality Act (CEQA) and funded under this Agreement shall not proceed until documents that satisfy the CEQA process are received by the State Project Manager and the State has completed its CEQA compliance. Work funded under this Agreement that is subject to a CEQA document shall not proceed until and unless approved by the State Project Manager. Such approval is fully discretionary and shall constitute a condition precedent to any work for which it is required. Once CEQA documentation has been completed, the State will consider the environmental documents and decide whether to continue to fund the project or to require changes, alterations, or other mitigation.

SECTION 12 GRANTEE'S RESPONSIBILITIES FOR WORK

Grantee shall be responsible for work and for persons or entities engaged in work, including, but not limited to, subcontractors, suppliers, and providers or services. Grantee shall give personal supervision to any work required under this Agreement or employ a competent representative, satisfactory to State, with the authority to act for Grantee. Grantee or its authorized representative shall be present while work is in progress. Grantee shall give attention to the fulfillment of the Agreement and completion of the Project, and shall keep work within Scope of Work, project schedule and budget. The Grantee shall be responsible for any and all disputes arising out of its contracts for work on the Project, including but not limited to bid disputes and payment disputes with the Grantee's contractors and subcontractors. The State will not mediate disputes between the Grantee and any other entity concerning responsibility for performance of work.

SECTION 13 PERFORMANCES AND ASSURANCES

Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and statements made by Grantee in the application, documents, amendments, and communications filed in support of its request for California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) financing.

Grantee agrees to faithfully and expeditiously perform or cause to be performed all Project work as described in the Scope of Work and to apply State funds received only to the Eligible Project Costs in accordance with applicable provisions of the law.

DEFAULT PROVISIONS AND DISPUTE RESOLUTION

Grantee shall be in default under this Agreement if any of the following occur:

a) Substantial breaches of this Agreement, or any supplement or amendment to it, or any other agreement between Grantee and State evidencing or securing Grantee's obligations; or

b) Making any false warranty, representation, or statement with respect to this Agreement or the application filed to obtain this Agreement; or

c) Failure to make any remittance required by this Agreement.

Should an event of default occur, State shall provide notice of default to the Grantee and shall give Grantee ten or more days to cure the default from the date the notice of default is sent via first-class mail to the Grantee. If the Grantee fails to cure the default within the time prescribed by the State, State may do any or all of the following:

a) Declare the funds be immediately repaid, with interest, which shall be equal to State of California general obligation bond interest rate in effect at the time of default;

b) Terminate any obligation to make future payments to the Grantee;

c) Terminate the Agreement; and

d) Take any other action that it deems necessary to protect its interests, including but not limited to completing the work, and requiring the Grantee to pay the cost of the work, less the State cost share.

SECTION 14 PROJECT OFFICIALS AND NOTICES

The Project Manager for the State is John Paasch, Chief, Flood Operations Branch, Division of Flood Management, Department of Water Resources.

The State's Program Manager shall be the Chief of the Division of Flood Management, Department of Water Resources. The State's Program Manager shall be the State's representative and shall have the authority to make determinations and findings with respect to each controversy arising under or in connection with the interpretation, performance, or payment for work performed under the Agreement. The State's Program Manager may delegate any task to the State's Project Manager.

The Grantee Project Manager shall be Lori Hanson. The Grantee Project Manager shall be the Grantee's representative for the administration of the Agreement and shall have full authority to act on behalf of the Grantee, including authority to execute all payment requests. All communications given to the Project Manager shall be as binding as if given to the Grantee.

Either party may change its representative upon written notice to the other party. Any notice, demand, request, consent, or approval that either party desires or is required to give to the other party under this Agreement shall be in writing to the Project Manager.

Notices required to be given to the State in writing by the Grantee under this Agreement shall be sent to:

State of California
Department of Water Resources
Flood Operations Branch
3310 El Camino Avenue, Room 200
Sacramento, CA 95821

Notices required to be given to the Grantee in writing by the State under this Agreement shall be sent to:

Lori Hanson
Administrative Manager
OC Public Works
2301 N. Glassell
Orange, CA 92865

A change of address for delivery or notice may be made by either party by written notice of such change of address to the other party.

Notices may be sent by any of the following means: delivery in person, by certified U.S. Mail, postage prepaid, by "overnight" delivery service or, electronic transmission followed by submittal of a hard copy.

SECTION 15 MAINTENANCE OF PROPERTY IMPROVED

Grantee agrees to use, manage, and maintain the property developed, rehabilitated, or restored with the grant funds provided in this Agreement consistent with the purposes of the program and is required to continue in perpetuity or until deemed no longer necessary by the State. Specific maintenance activities are outlined in Exhibit E, Planned Maintenance Activities. The Grantee or their successors may, with the approval of the State, transfer this responsibility to use, manage, and maintain the property as discussed in Exhibit D, Standard Terms: Easements. Such title transfer will occur in a way that binds the new owner to the same obligations.

IN WITNESS HEREOF, the following authorized representatives have executed this Agreement as of the date first above written and approved as to Legal form and sufficiency.

ORANGE COUNTY
PUBLIC WORKS

By: _____
Shane Silsby
Director, OC Public Works

Date: _____

Approved as to Legal Form
and Sufficiency

By: _____
Eric Devine
County Counsel

Date: _____

STATE OF CALIFORNIA
DEPARTMENT OF WATER
RESOURCES

By: _____
Jon Ericson, Chief
Hydrology and Flood Operations Office

Date: _____

Approved as to Legal Form
and Sufficiency

By: _____
Robin Brewer
Assistant Chief Counsel

Date: _____

Attachments

List of Exhibits:

Exhibit A – Scope of Work

Exhibit B – Budget

Exhibit C – Schedule

Exhibit D – Standard Terms

Exhibit E – Planned Maintenance Activities

Exhibit A
Project Scope of Work

Orange County Public Works Emergency Response and Flood Monitoring Program

The Orange County (OC) Public Works Emergency Response and Flood Monitoring Program contains three major components: planning, training, and monitoring equipment. Each will improve the effectiveness of OC Public Works, Operations and Maintenance emergency flood response operations. First, a Flood Monitoring Plan will be developed to specify the procedures on operating live-stream digital data. Next, a Flood Safety Plan will be developed utilizing the State of California Department of Water Resources guidelines to define facilities and detail services. To clarify goals and objectives, training and hands-on exercises will be developed for operations personnel regarding the Flood Safety and Flood Monitoring Plans. Last, remote site monitoring cameras will be procured to remotely view flood-prone areas for water flow, erosion, flooding, and water levels. Analysis of real-time visuals will aid the Orange County Public Works Department Operations Center on resource deployment during heavy rains. In addition, information collected will be relayed to local managers, emergency management agencies, law enforcement, and operational area coordinators to provide an all-around picture of regional flooding issues. The planning, coordination, and implementation of this program will be led by OC Public Works, Operations and Maintenance with crucial input from OC Flood and OC Environmental Services. The adopted plan will be incorporated into the OC Public Works Storm Operations Manual which is part of the overall “Prepare OC: County of Orange Incident Preparedness, Response and Recovery Program”.

OC Public Works will pay for Tasks 1 and 2 and will not request reimbursement from the California Department of Water Resources (DWR) for work completed on these tasks. However, Tasks 1 and 2 are required elements to receive funding for Task 3, so they are included in this scope of work to support Task 3. OC Public Works will pay for Tasks 3.1 and 3.2 and will not request reimbursement from DWR for work completed on these tasks.

Task 1: Flood Monitoring and Flood Safety Plans

Sub-Task 1.1 – Flood Monitoring Plan: Develop remote site monitoring plan to specify the policies and procedures on operating live-stream digital monitoring equipment. This includes camera software, equipment specifications, routine preventative maintenance, camera locations and privacy policies.

Sub-Task 1.1 Deliverables:

a) Completed Flood Monitoring Plan

By whom completed: ***OC Public Works Staff***

Sub-Task 1.2 – Flood Safety Plan: Create a comprehensive Flood Safety Plan utilizing the State of California, Department of Water Resources Framework. This includes merging elements of the Operational Area Hazard Mitigation Plan, Flood Monitoring Plan and OC Public Works Storm Operations Manual. The plan will include the minimum content requirements of California Water Code Section 9650:

1. A flood preparedness plan that includes storage of materials that can be used to reinforce or protect a levee when a risk of failure exists.
2. A levee patrol plan for high water situations.
3. A flood-fight plan for the period before State or federal agencies assume control over the flood fight.
4. An evacuation plan that includes a system for adequately warning the general public in the event of a levee failure, and a plan for the evacuation of every affected school, residential care facility for the elderly, and long-term health care facility.
5. A floodwater removal plan.
6. A requirement, to the extent reasonable, that either of the following applies to a new building in which the inhabitants are expected to be essential service providers:
    a. The building is located outside an area that may be flooded.
    b. The building is designed to be operable shortly after the floodwater is removed.

The safety plan shall be integrated into any other local agency emergency plan and coordinated with the State emergency plan.

Sub-Task 1.2 Deliverables:

a) Completed Flood Safety Plan

By whom completed: ***OC Public Works Staff***

Summary of Task 1 Deliverables:

1.1 Completed Flood Monitoring Plan
1.2 Completed Flood Safety Plan

Task 2: Multi-Division Training and Exercise

Sub-Task 2.1 – Multi-Division Training and Exercise: Based on the newly adopted Flood Monitoring and Flood Safety Plans, OC O&M will develop training sessions with hands-on exercises for multi-division staff. This is to familiarize staff on the proper operations of monitoring equipment, long-term goals, emergency response practices, and safety protocols.

Sub-Task 2.1 Deliverables:

a) Training and exercise agenda
b) Participant lists

By whom completed: ***OC Public Works Staff***

Summary of Task 2 Deliverables:

2.1 Training and exercise agenda
Participant lists

Task 3: Procurement of Wireless Web Cameras

***Sub-Task 3.1 – Trial Camera Installation*:** Purchase one solar-powered, wireless web camera to test operations, software, hardware, ease of installation, and functionality.

Sub-Task 3.1 Deliverables:

a) Summary of camera installation, including photos and test results

By whom completed: ***OC Public Works Staff***

***Sub-Task 3.2 – Create Request for Proposal (RFP)*:** Based on results of trial camera, create written Request for Proposal (RFP) with camera specifications for the purchase of 8 to10 cameras. Send RFP to OC Procurement to complete purchase order and request for bids.

Sub-Task 3.2 Deliverables:

a) Copy of Request for Proposal

By whom completed: ***OC Public Works Staff***
OC Administrative Services Staff

Sub-Task 3.3 – Purchase and Install Web Cameras: Complete bid process, purchase, and install cameras.

Sub-Task 3.3 Deliverables:

a) Copies of equipment specifications, shipping slips, and invoices
b) Post installation report presenting all cameras with map(s) showing the locations and camera angles, photos of installation, and equipment list as evidence of final installation of cameras
c) Copies of environmental documentation required for camera installation, as necessary

By whom completed: ***OC Public Works Staff***
OC Administrative Services Staff

Summary of Task 3 Deliverables:

3.1 Summary of trial camera installation, including photos and test results
3.2 Copy of Request for Proposal
3.3 Copies of equipment specifications, shipping slips and invoices
Post installation report presenting all cameras with map(s) showing the locations and camera angles, photos, and equipment list as evidence of final installation of cameras
Copies of environmental documentation required for camera installation, as necessary

Exhibit B
Project Budget

Orange County Public Works Emergency Response and Flood Monitoring Program

The following is a breakdown of costs for significant steps, tasks, and subtasks for this project.

	Matched Funding	DWR Authorized Funding	Total Funding
Step 1) Planning & Coordination:			
Task 1: Flood Monitoring and Flood Safety Plans	**$32,280**	**$0**	**$32,280**
Subtask 1.1: Completed Flood Monitoring Plan	$6,456	$0	$6,456
Subtask 1.2: Completed Flood Safety Plan	$25,824	$0	$25,824
Step 2) Training & Exercises:			
Task 2: Multi-Division Training and Exercise	**$16,140**	**$0**	**$16,140**
Subtask 2.1: Multi-Division Training and Exercise	$16,140	$0	$16,140
Step 3) Equipment:			
Task 3: Procurement of Wireless Web Cameras	**$11,800**	**$75,000**	**$86,800**
Subtask 3.1: Trial Camera	$7,000	$0	$7,000
Subtask 3.2: Completed Request for Proposal	$4,800	$0	$4,800
Subtask 3.3: Procurement of Cameras	$0	$75,000	$75,000
Grand Total:			**$135,220**
Orange County Contribution:			**$60,220**
DWR Authorized Funding:			**$75,000**

Exhibit C
Project Schedule

Orange County Public Works Emergency Response and Flood Monitoring Program

Project Planner

OC Public Works Emergency Response and Flood Monitoring Program

Period Highlight 1

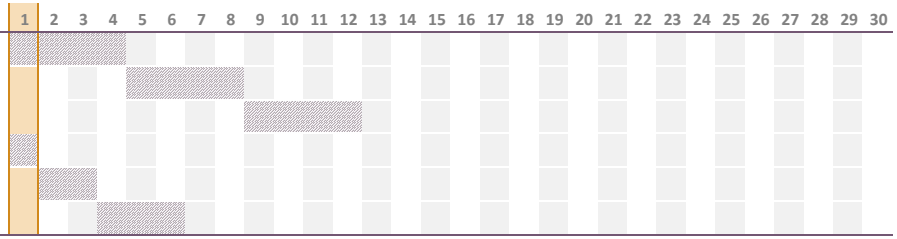
Plan | Actual | % Complete | Actual (beyond plan) | % Complete (beyond plan)

Note: Period equals two weeks

Anticipated start date: 1 June 2016

ACTIVITY	PLAN START	PLAN DURATION	ACTUAL START	ACTUAL DURATION	PERCENT COMPLETE
1.1 Flood Monitoring Plan	1	4	0	0	0%
1.2 Flood Safety Plan	5	4	0	0	0%
2.1 Multi-Division Training	9	4	0	0	0%
3.1 Trial Camera	1	1	0	0	0%
3.2 Request for Proposal	2	2	0	0	0%
3.3 Procurement of Cameras	4	3	0	0	0%

PERIODS



NOTE: Schedule will be adjusted to start of execution date of the funding agreement

STANDARD TERMS

1. ACCOUNTING AND DEPOSIT OF GRANT DISBURSEMENT:

   a) Separate Accounting of State Grant Disbursements and Interest Records: The Grantee shall account for the money disbursed pursuant to this Agreement separately from all other Grantee's funds. The Grantee shall maintain audit and accounting procedures that are in accordance with generally accepted accounting principles and practices, consistently applied. The Grantee shall keep complete and accurate records of all receipts, disbursements, and interest earned on expenditures of such funds. The Grantee shall require its contractors or subcontractors to maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. Records are subject to inspection by the State at any and all reasonable times.

   b) Disposition of Money Disbursed: All money disbursed pursuant to this Agreement shall be deposited, administered, and accounted for pursuant to the provisions of applicable law.

   c) Remittance of Unexpended Funds: The Grantee, within a period of sixty (60) days from the final disbursement from the State to the Grantee of State Grant funds, shall remit to the State any unexpended funds that were disbursed to the Grantee under this Agreement and were not needed to pay Eligible Project Costs.

   d) Interim and Final Audits: The State reserves the right to conduct an audit at any time between the execution of this Agreement and the completion of the Project, with the costs of such audit borne by the State. After completion of the Project, the State may require the Grantee to conduct a final audit, at the State's expense.

      Pursuant to Government Code Section 8546.7, the contracting parties shall be subject to the examination and audit of the State for a period of three years after final payment under the contract. All Grantee's records and the Grantee's subcontractors related to this agreement shall be retained for at least three years after project completion.

2. ACKNOWLEDGEMENT OF CREDIT: The Grantee shall include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the Project, erecting signs at the project site, or using any data and/or information developed under the Agreement.

3. AMENDMENT: This Agreement may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in

any way contrary to applicable law. Requests by the Grantee for amendments must be in writing stating the amendment request and the reason for the request.

4. AMERICANS WITH DISABILITIES ACT: By signing this Agreement, Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

5. ANTITRUST CLAIMS: Grantee shall comply with all applicable laws and regulations regarding securing competitive bids and undertaking competitive negotiations in Grantee's contracts with other entities for acquisition of goods, and services and construction of public works with funds provided by the State under this Agreement.

6. APPROVAL: This Agreement is of no force or effect until signed by all parties to the agreement. Grantee may not submit invoices or receive payment until has all required signatures have been obtained.

7. AVAILABILITY OF FUNDS: Work to be performed under this contract is subject to availability of funds through the State's normal budget process.

8. CALIFORNIA CONSERVATION CORPS: As required in Water Code section 79038(b), Grantee shall examine the feasibility of using the California Conservation Corps or community conservation corps to accomplish the habitat restoration, enhancement and protection activities listed in the Scope of Work (Exhibit C), and shall use the services of one of these organizations whenever feasible.

9. CLAIMS DISPUTE: Any claim that the Grantee may have regarding the performance of this agreement including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Project Manager, Department of Water Resources, within thirty (30) days of the Grantee's knowledge of the claim. Project Manager and Grantee shall then attempt to negotiate a resolution of such claim and process an amendment to this Agreement to implement the terms of any such resolution.

10. COMPETITIVE BIDDING AND PROCUREMENTS: Grantee shall comply with all applicable laws and regulations securing competitive bids and undertaking competitive negotiations in Grantee contracts with other entities for acquisition of goods and services and construction of public works with funds provided by State under this Funding Agreement.

11. CONDITIONS FOR DISBURSEMENT: The State shall have no obligation to disburse money under this Agreement unless and until the Grantee has satisfied the State that the disbursement is in accordance with the requirements of the legislation creating the funding source for the grant funds. Before engaging in site modifications to be paid for from State funds, the grantee must complete the following:

    a) For Construction Projects, the Grantee must submit to the State, final plans and specifications certified by a California Registered Civil Engineer or equivalent documentation as to compliance with the approved Project.

    b) The Grantee must submit a written statement by an authorized representative that it has obtained all necessary permits, easements, rights-of-way and approvals as may be required by other State, federal, and/or local agencies, as specified in Section 11 of this Agreement.

    c) The Grantee must demonstrate compliance with the California Environmental Quality Act and if applicable the National Environmental Policy Act by submitting copies of any environmental documents, including environmental impact reports, environmental impact statements, negative declarations, mitigation agreements, legal notices and environmental permits as may be required prior to modifying the Project site.

    d) The Grantee must demonstrate continuing availability of sufficient funds to complete the Project.

    e) The Grantee shall develop, and submit for State approval, a plan to minimize the impacts to adjacent landowners (California Water Code Section 79041, Division 26, Chapter 5, Article 2.5). This plan may require completion of a hydrologic and hydraulic study, and if so the specifications will be included in Exhibit A, the project Scope of Work.

12. CONFLICT OF INTEREST:

    a) <u>Current State Employees</u>:
    No state officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

    No state officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

b) Former State Employees:
For the two year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the Agreement while employed in any capacity by any state agency.

For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed Agreement within the twelve-month period prior to his or her leaving state service.

c) City/County/Non Profit Employees:
No employee, officer, employer or agency of the City/County/Non Profit shall participate in the selection or in the award or administration of a contract supported by State Funds if a conflict of interest, real or apparent, would be involved. The City/County/Non Profit shall comply with all applicable laws on conflict of interest including, but not limited to the following: Public Contract Code (PCC) Sections 10335.5 et seq., PCC Sections 10365.5 et seq., PCC Sections 10410 et seq., and Government Code Sections 1090 et seq., and 8100 et seq.

13. DRUG-FREE WORKPLACE CERTIFICATION: By signing this contract, the Grantee hereby certifies under penalty of perjury under the laws of the State of California that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

a) Publish a statement notifying employees, contractors and subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, contractors or subcontractors for violations.

b) Establish a Drug-Free Awareness Program to inform employees, contractors and subcontractors about all of the following:

1. The dangers of drug abuse in the workplace,
2. The Grantee's policy of maintaining a drug-free workplace,
3. Any available counseling, rehabilitation and employee assistance programs, and
4. Penalties that may be imposed upon employees, contractors or subcontractors for drug abuse violations.

c) Every employee, contractor and subcontractor who works under this Agreement:

1. Will receive a copy of the Grantee's drug-free policy statement, and
2. Will agree to abide by terms of the Grantee's statement as a condition of employment, contract or subcontract.

14. EASEMENTS: Where the Grantee acquires property in fee title or funds improvements to property already owned in fee by the Grantee using grant funds provided through this Agreement, an appropriate easement or other title restriction providing for floodplain preservation and agricultural and/or wildlife habitat conservation for the subject property in perpetuity, approved by the State, shall be conveyed to a regulatory or trustee agency or conservation group acceptable to the State. The easement or other title restriction must be in first position ahead of any recorded mortgage or lien on the property unless this requirement is waived by the State.

    Where the Grantee acquires an easement under this Agreement, the grantee agrees to monitor and enforce the terms of the easement, unless the easement is subsequently transferred to another land management or conservation organization or entity with State permission, at which time monitoring and enforcement responsibilities will transfer to new easement owner.

    Failure to provide an easement acceptable to the State can result in termination of this Agreement.

15. ELIGIBLE PROJECT COSTS: Grantee shall apply State Grant funds received only to eligible project costs, as identified in Exhibit B - Budget.

16. GOVERNING LAW: This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

17. INDEMNIFICATION: Grantee shall indemnify and hold and save the State, its officers, agents, and employees, free and harmless from any and all liabilities for any claims and damages (including inverse condemnation) that may arise out of the Project and this Agreement, including, but not limited to any claims or damages arising from the planning, design, construction, maintenance and/or operation of levee rehabilitation measures for this Project and any breach of this Agreement. Grantee shall require its contractors to name the State, its officers, agents, and employees as additional insureds on their liability insurance for activities undertaken pursuant to this Agreement.

18. INSPECTIONS OF PROJECT BY STATE: The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Agreement. This right shall extend to any subcontracts, and the

Grantee shall include provisions ensuring such access in all its contracts or subcontracts entered into pursuant to its Agreement with the State.

19. INSPECTIONS OF BOOKS, RECORDS AND REPORTS: During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and to make copies of any books, records, or reports of either party pertaining to this Funding Agreement or matters related hereto. Each of the parties hereto shall maintain and shall make available at all times for such inspection accurate records of all its costs, disbursements, and receipts with respect to its activities under this Funding Agreement. Failure or refusal by Grantee to comply with this provision shall be considered a breach of this Funding Agreement, and the State may withhold disbursements to Grantee or take any other action it deems necessary to protect its interests as provided in the Funding Agreement.

20. LABOR COMPLIANCE PLAN: Prior to awarding a contract for public works projects funded in whole or in part from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, or any other source of funding so requiring, the grantee shall comply with Public Resources Code Section 75075, which requires adoption and enforcement of a labor compliance program pursuant to subdivision (b) of Labor Code Section 1771.5 for application to the funded public works project. At the State's request, Grantee must promptly submit written evidence of its compliance with Labor Compliance Program requirements.

21. NONDISCRIMINATION: During the performance of this Agreement, the Grantee, it contractors, and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Govt. Code § 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et. seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code § 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

    Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Funding Agreement.

22. PROHIBITION AGAINST DISPOSAL OF PROPERTY WITHOUT STATE PERMISSION: The Grantee shall not sell, abandon, lease, transfer, exchange, mortgage, hypothecate, or encumber in any manner whatsoever all or any portion of any real or other property necessarily connected or used in conjunction with the Project, without prior permission of the State. The Grantee shall not take any action, including but not limited to actions relating to user fees, charges, and assessments that could adversely affect the ability of the Grantee to meet its obligations under this Agreement, without prior written permission of the State. The State may require that the proceeds from the disposition of any real or personal property be remitted to the State to be applied to the Grantee's indebtedness under this Agreement.

23. REIMBURSEMENT CLAUSE: If applicable, travel and per diem expenses to be reimbursed under this contract shall be the same rates the State provides for unrepresented employees in accordance with the provisions of Title 2, Chapter 3, of the California Code of Regulations.

24. SEVERABILITY: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

25. SUCCESSOR AND ASSIGNS: This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto. No assignment or transfer of this Agreement or any part thereof, rights hereunder, or interest herein by the Grantee shall be valid unless and until it is approved by the State and made subject to such reasonable terms and conditions as the State may impose.

26. TERMINATION WITHOUT CAUSE: The State may terminate this Agreement without cause on 30 days advance written notice. The Grantee shall be reimbursed for all reasonable expenses incurred up to the date of termination.

27. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided including but not limited to reasons of default under Standard Term 28 – Termination By Grantee.

28. TERMINATION BY GRANTEE: Subject to State approval which may be reasonably withheld, Grantee may terminate this Agreement and be relieved of contractual obligations. In doing so, Grantee must provide a reason(s) for termination. Grantee must submit all progress reports summarizing accomplishments up until termination date.

29. THIRD PARTY BENEFICIARIES: The parties to this Agreement do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or any duty, covenant, obligation or understanding established herein.

30. TIMELINESS: Time is of the essence in this Agreement.

31. WITHHOLDING OF GRANT FUNDS BY STATE:

    a) Withholding Clause: The State will withhold ten percent (10%) of the funds requested by the Grantee for reimbursement of Eligible Project Costs until the Project is completed and Final Report is received. Withheld funds may be released upon completion of milestones identified in Exhibit A, the project Scope of Work.

    b) Additional Conditions for Withholding: If the State determines that the Project is not being completed substantially in accordance with the provisions of this Agreement or that the Grantee has failed in any other respect to comply substantially with the provisions of this Agreement, and if the Grantee does not remedy any such failure to the State's satisfaction, the State may withhold from the Grantee all or any portion of the State Grant commitment and take any other action that it deems necessary to protect its interests.

32. WORKERS' COMPENSATION: The Grantee affirms that it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and the Grantee affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision.

Exhibit E
Maintenance Plan

Orange County Public Works Emergency Response and Flood Monitoring Program

The Department of Water Resources is not responsible for the funding or execution of any scheduled maintenance, emergency repair activities, or product updates related to equipment, plans, maps, or committees purchased or created under this grant project.

Task 1: Flood Monitoring and Flood Safety Plans

Both program plans (Flood Monitoring and Flood Safety) will be reviewed annually prior to storm season to update current contact and staffing information. Additional revisions and updates will be made as the program develops.

Task 2: Multi-Division Training and Exercise

Based on the newly adopted Flood Monitoring and Flood Safety Plans, OC Operations & Maintenance will develop training sessions with hands-on exercises for multi-division staff. Training will be conducted annually prior to storm season to update staff on any changes or revisions to the program plans.

Task 3: Procurement of Wireless Web Cameras

Routine quarterly maintenance of remote site monitoring cameras will be scheduled utilizing the MaintStar Computerized Maintenance Management System (CMMS) which tracks routine labor, equipment usage, and materials on work orders. To ensure that all equipment is well maintained, preventative maintenance and routine inspections will be standard practice on each component. This includes updating software applications, troubleshooting IT issues, consistent testing of equipment, routine cleaning, and proper storage.

Continuation or Deletion Request

2016 MAY -4 PM 2:18

Date: **May 3, 2016**

To: Clerk of the Board of Supervisors

From: **Scott D. Mayer, Chief Real Estate Officer** Scott D. Mayer

Re: ASR Control #: 16-000078, Meeting Date 5/10/16 Agenda Item No. # 59

Subject: **RV Storage Depot Lease Option Agreement**

☒ Request to continue Agenda Item No. # 59 to the 5/24/16 Board Meeting.

Comments: Upon Board direction, this item needs to be continued to the May 24, 2016 Board meeting.

☐ Request deletion of Agenda Item No. # _____

Comments:

Revision to ASR and/or Attachments

2016 APR 29 AM 8:05

Date: **4/29/2016**

To: Clerk of the Board of Supervisors

CC: County Executive Office

From: **Valerie Sanchez, Assistant Clerk of the Board**

Re: ASR Control #: 16-000192, Meeting Date 05/10/16 Agenda Item No. # 64

Subject: **APPROVAL OF FY 2016-17 ANNUAL ACTION PLAN AND ORANGE COUNTY FAIR HOUSING PLAN**

Explanation: Due to clerical errors in preparing the agenda, the agenda title is revised as follows:

Public Hearing to consider approving ~~FY 2015-19 Consolidated Plan,~~ FY 2016-17 Annual Action Plan and FY 2015-19 *County of* Orange Analysis of Impediments to Fair Housing Choice and Fair Housing Action Plan; approve Federal allocation of U.S. Department of Housing and Urban Development new, re-programmed and program income Community Development Block Grant; Home Investment Partnership Act; Emergency Solutions Grant funds; and State and local funds ($7,307,683); select providers and projects for public services, housing rehabilitation and public facilities and improvements (PF&I) activities; approve funding allocations up to the requested amount by providers including extension of CalWORKs funding for FY 2016-17 to Mercy House Living Centers, Inc. to continue to provide rapid rehousing services; approve model contracts for public services, housing rehabilitation, PF&I activities and model amendments; approve "License to use State Military Facility" agreement with California National Guard for Santa Ana and Fullerton Armory Facilities, FY 2016-17 ($170,190); and authorize Director or designee to sign and submit agreements *and* all ministerial administrative documents in accordance with funding availability and make any non-material changes as may be required by U.S. Department of Housing and Urban Development- All Districts.

Continuation or Deletion Request

Date: May 4, 2016

To: Clerk of the Board of Supervisors

From: **Shane L. Silsby, Director of OC Public Works**

Re: ASR Control #: 16-000358, Meeting Date 5/10/16 Agenda Item No. # 65

Subject: **Planning Application Approval for the Cielo Vista Project**

☐ Request to continue Agenda Item No. # _____ to the _____ Board Meeting.

Comments:

☒ Request deletion of Agenda Item No. # 65

Comments: To allow time for additional evaluation of the project.

2016 MAY -5 AM 7:28

Continuation or Deletion Request

Date: **April 29, 2016**

To: Clerk of the Board of Supervisors

From: **Leon J. Page, County Counsel**

Re: ASR Control #:_____, Meeting Date 5/10/16 Agenda Item No. # CS-1

Subject: **Conference with Legal Counsel - Initiation of Litigation**

☐ Request to continue Agenda Item No. # _____ to the _____ Board Meeting.

Comments:

☒ Request deletion of Agenda Item No. # CS-1

Comments:

Continuation or Deletion Request

2016 APR 28 PM 1:45

Date: **April 28, 2016**

To: Clerk of the Board of Supervisors

From: **Robert O'Brien, Assistant HR Director**

Re: ASR Control #: N/A, Meeting Date 5/10/16 Agenda Item No. # CS-2

Subject: **Closed Session - Human Resource Services - Conference with Labor Negotiator**

☐ Request to continue Agenda Item No. # _____ to the _____ Board Meeting.

Comments:

☒ Request deletion of Agenda Item No. # CS-2

Comments:

County Executive Office

S63A

Memorandum

May 5, 2016

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 for the May 10, 2016, Board Hearing Meeting.

Agency: County Executive Office
Subject: Amendment to Lease and Indenture for the Lease Revenue Refunding Bonds, Series 2005
Districts: All Districts

Reason for supplemental: The County Executive Office requests this supplemental agenda item be placed on the May 10, 2016, Board meeting in order to facilitate the extension of importation revenues being used to pay the remaining debt service on the 2005 Bonds. The Agenda Staff Report and attachments were not finalized until after the filing deadline to the Clerk of the Board.

Concur: _____
Chairwoman Lisa Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item
Clerk's Use Only _____

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE:	05/10/16
LEGAL ENTITY TAKING ACTION:	Board of Supervisors and Orange County Public Financing Authority
BOARD OF SUPERVISORS DISTRICT(S):	All Districts
SUBMITTING AGENCY/DEPARTMENT:	County Executive Office
DEPARTMENT HEAD REVIEW:	*Department Head Signature*
DEPARTMENT CONTACT PERSON(S):	Suzanne Luster (714) 834-3362 Louis McClure (714) 834-5999

SUBJECT: Amendment to Lease and Indenture for the Lease Revenue Refunding Bonds, Series 2005

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
	No legal objection *Action*	Discussion
CEO Signature	*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: See Financial Impact Section

Funding Source: See Financial Impact Section

County Audit in last 3 years No

Prior Board Action:

RECOMMENDED ACTION(S)

1. Adopt the Resolution approving the execution and delivery of an Amendment to the Lease relating to Orange County Public Financing Authority Lease Revenue Refunding Bonds, Series 2005 and approving certain actions in connection therewith.

2. Acting as the Board of Directors of the Orange County Public Financing Authority, adopt the Resolution authorizing the execution and delivery of Supplemental Indenture and Amendment to the Lease relating to Lease Revenue Refunding Bonds, Series 2005 and approving certain actions in connection therewith.

SUMMARY:

Approval of the recommended actions will allow revenues from waste importation to continue to pay the debt service on the Lease Revenue Refunding Bonds, Series 2005.

BACKGROUND INFORMATION:

In 2005, the County issued the Orange County Public Financing Authority Lease Revenue Refunding Bonds, Series 2005 (2005 Bonds), which refunded the 1996 Recovery Certificates of Participation (1996 COPs). The Board of Supervisors approved the disposal of out-of-County waste at Orange County landfills in 1995. Revenues related to the importation offset a portion (along with other diverted revenues) of the debt service on the 1996 COPs and later the 2005 Bonds. The Waste Disposal Agreements (WDAs) with cities were set to terminate in 2020 and required that any contracts for the importation of out-of-County solid waste terminate by June 30, 2016. However, all necessary parties have approved amendments to the WDAs extending their terms to 2025 and removing importation restrictions. The 2005 Bond documents were drafted assuming the June 30, 2016 termination of importation revenues. The proposed amendments to the Lease and Indenture will facilitate the extension of importation revenues being used to pay the remaining debt service on the 2005 Bonds.

FINANCIAL IMPACT:

The proposed amendments to the Lease and Indenture will facilitate the extension of importation revenues being used to pay the remaining debt service on the 2005 Bonds.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Resolution of the Board of Supervisors
Attachment B - Resolution of the Orange County Public Financing Authority
Attachment C - Amendment to Lease
Attachment D - Supplemental Indenture

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE APPROVING THE EXECUTION AND DELIVERY OF AN AMENDMENT TO LEASE RELATING TO ORANGE COUNTY PUBLIC FINANCING AUTHORITY LEASE REVENUE REFUNDING BONDS, SERIES 2005 AND APPROVING CERTAIN ACTIONS IN CONNECTION THEREWITH

March 10, 2016

WHEREAS, the Orange County Public Financing Authority (the "Authority") issued its Lease Revenue Refunding Bonds, Series 2005 (the "Bonds") pursuant to an Indenture, dated as of August 1, 2005, between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"); and

WHEREAS, the County leased certain real property and all improvements thereon (the "Leased Facilities") to the Authority pursuant to a Site Lease, dated as of August 1, 2005 (the "Site Lease"), and the Authority leased the Leased Facilities back to the County pursuant to a Lease, dated as of August 1, 2005, between the Authority and the County (the "Lease"); and

WHEREAS, the County desires to enter into an amendment to the Lease (the "Amendment to Lease");

WHEREAS, there has been prepared and presented to the Board of Supervisors of the County (this "Board") for consideration at this meeting the form of Amendment to Lease, and such document is in substantially final form and appropriate instrument to be executed and delivered for the purposes intended;

NOW THEREFORE, be it resolved by the Board of Supervisors of the County of Orange as follows:

Section 1. The foregoing recitals are true and correct, and this Board so finds and determines.

Section 2. The form of the Amendment to Lease is hereby approved. The Chair or Vice Chair of the Board, the County Executive Officer, the County Chief Financial Officer or the County Public Finance Director or any designee thereof (each an "Authorized Officer"), are each hereby authorized and directed, for and in the name and on behalf of the County, to execute and deliver the Amendment to Lease in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The Authorized Officers and any other appropriate officer of the County are each hereby authorized and directed, jointly and severally, to do any and all things, that any of them may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the documents approved herein, including but not limited to paying the fees and expenses of the Trustee in connection with the Amendment to Lease.

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

ORANGE COUNTY PUBLIC FINANCING AUTHORITY

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ORANGE COUNTY PUBLIC FINANCING AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL INDENTURE AND AMENDMENT TO LEASE RELATING TO LEASE REVENUE REFUNDING BONDS, SERIES 2005 AND APPROVING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Orange County Public Financing Authority (the "Authority") is a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California; and

WHEREAS, the Authority is empowered under the provisions of Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Law") to issue bonds for the purpose of assisting local agencies whenever the local agency determines that there are significant public benefits from such assistance; and

WHEREAS, the Authority issued its Lease Revenue Refunding Bonds, Series 2005 (the "Bonds"), pursuant to an Indenture, dated as of August 1, 2005 (the "Indenture"), between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"); and

WHEREAS, the Authority desires to enter into a Supplemental Indenture to amend the Indenture pursuant to the provisions of Section 7.01(e) of the Indenture; and

WHEREAS, the Authority additionally desires to enter into an Amendment to Lease, by and between the Authority and the County;

WHEREAS, there has been prepared and presented to the Board of Directors of the Authority (this "Board") for consideration at this meeting the forms of Supplemental Indenture and Amendment to Lease, and such documents are in substantially final form and appropriate instruments to be executed and delivered for the purposes intended;

NOW, THEREFORE, be it resolved by the Board of Directors of the Orange County Public Financing Authority as follows:

Section 1. The foregoing recitals are true and correct, and this Board so finds and determines.

Section 2. The form of the Supplemental Indenture is hereby approved. The Executive Director, Finance Director, Chair or Vice Chair or any designee thereof (each an "Authorized Officer"), are each hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Supplemental Indenture in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The form of the Amendment to Lease is hereby approved. Any Authorized Officer is hereby authorized and directed, for and in the name and on behalf of the

Authority, to execute and deliver the Amendment to Lease in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The Authorized Officers and any other appropriate officer of the Authority are each hereby authorized and directed, jointly and severally, to do any and all things, that any of them may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the documents approved herein, including but not limited to paying the fees and expenses of the Trustee in connection with the Supplemental Indenture and Amendment to Lease.

Section 5. This resolution shall take effect immediately upon its passage.

Recording requested by:

COUNTY OF ORANGE, CALIFORNIA

After recording, return to:

Orrick, Herrington & Sutcliffe LLP
The Orrick Building
405 Howard Street
San Francisco, California 94105
Attention:

(This document is recorded for the benefit of the County of Orange, California, and such recording is fee-exempt under Section 6103 of the Government Code. Documentary Transfer Tax exempt pursuant to Section 11922 of the Revenue and Taxation Code.)

AMENDMENT TO LEASE DATED AS OF AUGUST 1, 2005

by and between

ORANGE COUNTY PUBLIC FINANCING AUTHORITY

and the

COUNTY OF ORANGE, CALIFORNIA

Dated as of May 1, 2016

AMENDMENT TO LEASE
DATED AS OF AUGUST 1, 2005

This Amendment to Lease Dated as of August 1, 2005 is dated as of May 1, 2016 (this "Amendment to Lease"), by and between the ORANGE COUNTY PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing pursuant to a Joint Exercise of Powers Agreement dated as of October 7, 1997 (the "Authority"), as lessor, and the COUNTY OF ORANGE, CALIFORNIA, a political subdivision of the State of California (the "County"), as lessee;

W I T N E S S E T H:

WHEREAS, pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, the Authority issued $419,755,000 aggregate principal amount of its Lease Revenue Refunding Bonds, Series 2005 (the "Bonds");

WHEREAS, in connection with the issuance of the Bonds, the County leased certain real property and all improvements thereon (the "Leased Facilities") to the Authority pursuant to the Site Lease dated as of August 1, 2005, and the Authority leased the Leased Facilities back to the County pursuant to the Lease, dated as of August 1, 2005, between the Authority and the County (the "Lease"); and

WHEREAS, the Authority and County desire to amend the Lease;

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties hereto agree as follows:

Section 1. The first paragraph of Section 3.01 of the Lease is hereby amended to read in full as follows:

> "The County agrees to pay to the Authority, in accordance with the Base Rental Payment Schedule, rental payments as Base Rental Payments for the use and occupancy of the Leased Facilities (subject to the provisions of Sections 3.04, 3.06 and 7.01 of this Lease). Each Base Rental Payment shall be payable in funds that are immediately available to the Authority not later than the fifteenth (15th) day of each month, as set forth in the Base Rental Payment Schedule. Each Base Rental Payment shall be paid by the County for the use and occupancy of the Leased Facilities."

Section 2. Capitalized terms used herein and not otherwise defined herein shall have the respective meaning ascribed to them in the Lease.

Section 3. This Amendment to Lease shall be effective as of May 10, 2016. Except as amended hereby, the Lease is hereby ratified and confirmed.

Section 4. This Amendment to Lease may be executed in any number of counterparts and each of such counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

Section 5. IN WITNESS WHEREOF, the parties hereto have caused this Amendment to Lease to be signed by their respective officers, all as of the day and year first above written.

ORANGE COUNTY PUBLIC FINANCING AUTHORITY

By _____
Authorized Officer

COUNTY OF ORANGE

By _____
Authorized Officer

APPROVED:

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By _____
Authorized Officer

SUPPLEMENTAL INDENTURE
AMENDING INDENTURE DATED AS OF
AUGUST 1, 2005

by and between

ORANGE COUNTY PUBLIC FINANCING AUTHORITY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

Dated as of May 1, 2016

SUPPLEMENTAL INDENTURE
AMENDING INDENTURE DATED AS OF
AUGUST 1, 2005

THIS SUPPLEMENTAL INDENTURE AMENDING INDENTURE DATED AS OF AUGUST 1, 2005, dated as of May 1, 2016 (this "Supplemental Indenture"), by and between the ORANGE COUNTY PUBLIC FINANCING AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority") and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., (formerly knowns as The Bank of New York Trust Company, N.A.) a national banking association organized and existing under the laws of the United States of America with a corporate trust office in Los Angeles, California, (the "Trustee").

RECITALS:

WHEREAS, the Authority is a joint powers authority duly organized and existing under and pursuant to that certain Joint Exercise of Powers Agreement dated as of October 7, 1997, by and between the County of Orange, California (the "County") and the Orange County Development Agency, and under the provisions of Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the California Government Code (the "Act"), and is authorized pursuant to the Act to issue bonds for the purpose of assisting local agencies; and

WHEREAS, the Authority issued its Lease Revenue Refunding Bonds, Series 2005 in the aggregate principal amount of $419,755,000 (the "Bonds"), pursuant to and secured by the Indenture (the "Indenture"), dated as of August 1, 2005, by and between the Authority and the Trustee; and

WHEREAS, the Authority desires to amend the Indenture pursuant to the provisions of Section 7.01(e) thereof;

NOW, THEREFORE, the Indenture is hereby amended as follows:

Section 1. Subsection (c) of Section 4.03 is hereby amended to read in full as follows:

> "Following payment in full of the Bonds, amounts in the Reserve Fund shall be transferred to the County."

Section 2. Capitalized terms used herein and not otherwise defined herein shall have the respective meaning ascribed to them in the Indenture.

Section 3. This Supplemental Indenture shall be effective as of May 10, 2016. Except as amended hereby, the General Indenture is hereby ratified and confirmed.

Section 4. This Supplemental Indenture may be executed in any number of counterparts and each of such counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be signed by their respective officers, all as of the day and year first above written.

ORANGE COUNTY PUBLIC FINANCING AUTHORITY

By _____
Authorized Officer

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

By _____
Authorized Officer

County Executive Office

S63B

Memorandum

May 5, 2016

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 for the May 10, 2016, Board Hearing Meeting.

Agency: OC Public Works
Subject: Approve West Washington Storm Drain Easement Amendment Deed
Districts: 1

Reason for supplemental: OC Public Works requests this supplemental agenda item be placed on the May 10, 2016, Board meeting in order to accommodate a mixed use development in the City of Santa Ana and facilitate Orange County Flood Control District's operation and maintenance of an impacted segment of the West Washington Storm Drain. The Agenda Staff Report and attachments were not finalized until after the filing deadline to the Clerk of the Board.

Concur:

Chairwoman Lisa Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item
Clerk's Use Only _____

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 05/10/2016

LEGAL ENTITY TAKING ACTION: Board of Supervisors and Orange County Flood Control District

BOARD OF SUPERVISORS DISTRICT(S): 1

SUBMITTING AGENCY/DEPARTMENT: OC Public Works

DEPARTMENT HEAD REVIEW: Shane Silsby
Department Head Signature

DEPARTMENT CONTACT PERSON(S): Shane Silsby (714) 667-9700
Nardy Khan (714) 647- 3906

SUBJECT: Approve West Washington Storm Drain Easement Amendment Deed

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
	Approved as to form	Discussion
	Action	
CEO Signature	*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:** N/A **Sole Source:** No

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)

1. Find that the project is categorically exempt from the CEQA, Classes 1 & 5 (Existing Facilities & Minor Alterations in Land Use Limitations) pursuant to CEQA Guidelines, Sections 15301 & 15305.

2. Approve the Easement Amendment Deed conveying additional easement area from TH Harbor Venture LLC to the Orange County Flood Control District and amend certain easement terms.

3. Authorize the Director of OC Public Works or designee to sign, accept and carry out the terms of the Easement Amendment Deed.

SUMMARY:

Approval of the West Washington Storm Drain Easement Amendment Deed will accommodate a mixed use development in the City of Santa Ana and facilitate Orange County Flood Control District's operation and maintenance of an impacted segment of the West Washington Storm Drain.

BACKGROUND INFORMATION:

TH Harbor Venture LLC (Grantor) plans to construct on its land located at 1206 North Harbor Boulevard in the City of Santa Ana, a mixed use commercial and residential development with 15 live/work units and 95 single-family residences. As part of this development, the Grantor intends to place additional earth over a segment of the Orange County Flood Control District's (District) West Washington Storm Drain to use its surface as a private street. Increasing the fill over the facility will require that the District utilize additional area along both sides of the District's existing easement should the need arise to excavate and replace this underground facility. To mitigate the impact on the District, the Grantor wishes to convey to the District, at no cost, easement rights to utilize additional areas to operate and maintain the facility. Board of Supervisors approval of the proposed project will amend the District's original flood control easement vesting deed for the Grantor to convey additional easement areas of approximately 3,487 square feet and 3,423 square feet to the District, and update indemnification and other terms.

General Plan Conformity: The project is in conformance with the General Plan of the City of Santa Ana.

Hazardous Materials Assessment: A Hazardous Materials Assessment has been completed by the District which revealed no significant issues of concern with regard to hazardous materials.

Compliance with CEQA: The proposed project is Categorically Exempt (Classes 1 & 5) from the provisions of CEQA pursuant to Sections 15301 & 15305, because it involves acceptance of additional right of way to an existing easement.

FINANCIAL IMPACT:

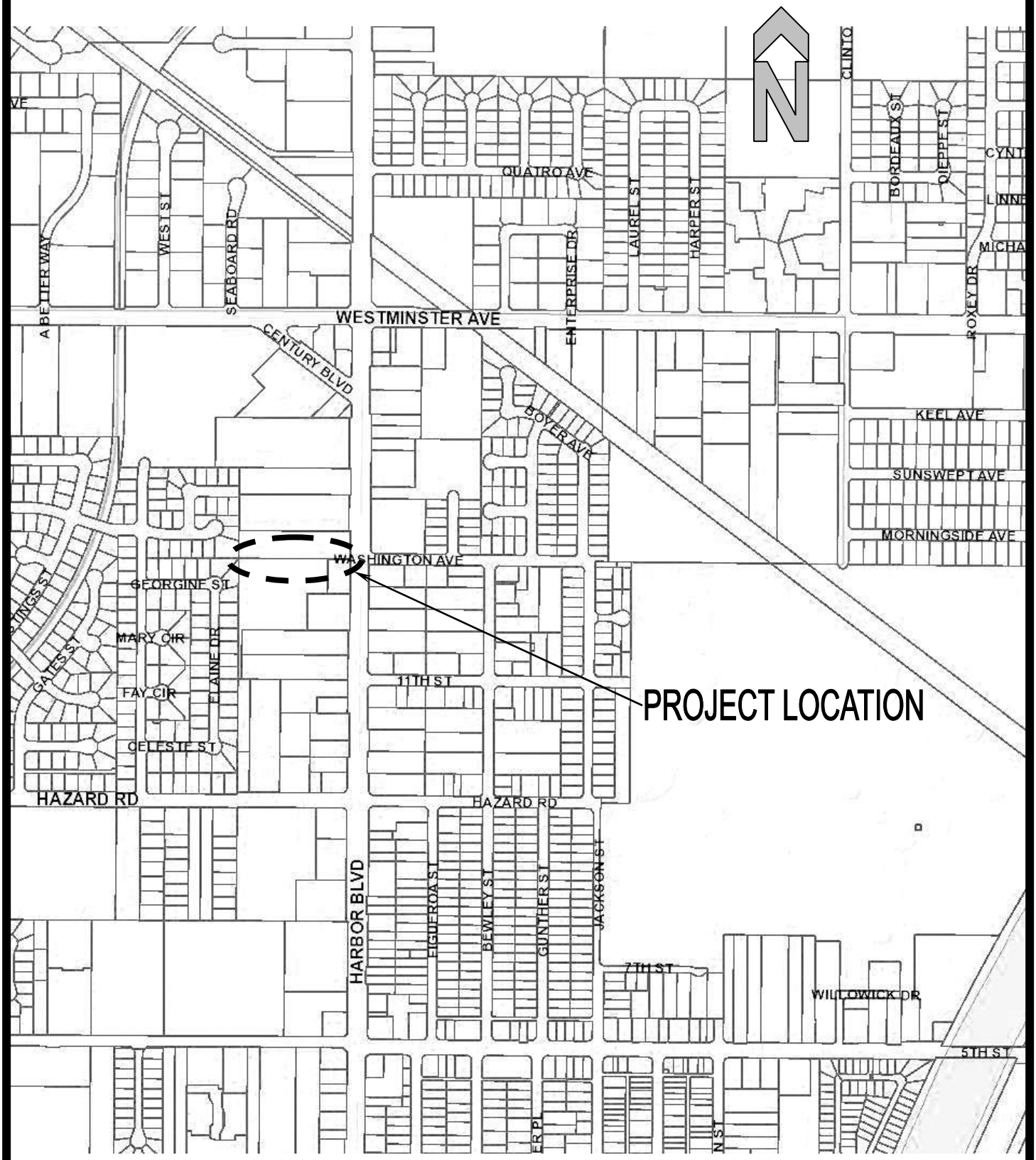
N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Project Location Map
Attachment B - Easement Amendment Deed
Attachment C - Acquisition Questionnaire



COUNTY OF ORANGE CALIFORNIA	**OC PUBLIC WORKS** **OC SURVEY** RIGHT - OF - WAY	ROWE ID 2016-023 SCALE : N.T.S.	LOCATION MAP
	PROJECT : West Washington Storm Drain (C05P23) Widening		

RECORDED AT THE REQUEST OF AND WHEN RECORDED MAIL TO:

County of Orange, OC Public Works
Right of Way Engineering
P.O. Box 4048
Santa Ana, CA 92702-4048

Mail Tax Statements as shown above

THIS SPACE FOR RECORDER'S USE ONLY

APN: 198-011-01, -02, -03 and 198-043-25

DOCUMENTARY TRANSFER TAX $ _____

__ Computed on the consideration or value of property conveyed
__ Exempt per Revenue & Taxation Code Section 11922
__ Exempt from Recording Fees per Govt. Code Section 27383

By: _____
SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME

☐ Unincorporated Area
☒ Incorporated - City of Santa Ana

Parcel No: C05P23-103,110, 111
Project: West Washington Storm Drain

EASEMENT AMENDMENT DEED

For valuable consideration, receipt of which is hereby acknowledged, this Easement Amendment Deed ("**Amendment**") is entered into and

TH HARBOR VENTURE LLC, a Delaware limited liability company, hereinafter referred to as "**GRANTOR**,"

does hereby grant to

the ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic hereinafter referred to as "**DISTRICT**." GRANTOR and DISTRICT may sometimes hereinafter be individually referred to as "**Party**" or jointly as "**Parties**."

RECITALS

1. Pursuant to that Superior Court of the State of California document entitled "Final Order of Condemnation" No. 211457 dated and recorded on May 6, 1975 in Book 11395, Page 267 of the Official Records of Orange County, California ("**Easement**") attached hereto as **Exhibit A**, DISTRICT holds perpetual easement rights for an underground storm drain in, on, under and over that certain real property identified and described in that document as the easement area within Parcel C05P23-103. Pursuant to these Easement rights, DISTRICT operates and maintains its underground West Washington Storm Drain Facility ("**Facility**"). The Parties intend to modify the existing Easement and add easement areas immediately adjacent to Parcel C05P23-103 as Parcels C05P23-110 and 111 by this Amendment. Parcels C05P23-103, 110 and 111 shall hereinafter be jointly referred to as

the "**Easement Area**" or "**Subject Parcel**."

2. Pursuant to that certain Grant Deed recorded August 14, 2015 in the Official Records of Orange County, California as Instrument No. 2015000426306, GRANTOR acquired all rights, title, and interest in the land encumbered by DISTRICT's Easement and the land to be encumbered by the Easement Area. GRANTOR and its successors and assigns may sometimes be referred to herein as "**Owner**."

3. GRANTOR submitted for DISTRICT's review Tentative Tract Map No. 17774 and a residential development plan for 1206, 1226, and 1310 North Harbor Boulevard in the City of Santa Ana, which included the Subject Parcel. GRANTOR intends to utilize the surface above DISTRICT's Facility as a throughway to traverse east to west across the tract to/from North Harbor Boulevard. The proposed throughway will entail placement of additional fill over the Facility, which results in DISTRICT needing to utilize more land than that of its existing easement area on the Subject Parcel. This is due to the fact that when DISTRICT needs to access its Facility for repair or replacement removal of this additional fill would require a wider area of excavation. Therefore, the Parties intend to amend the Easement and for GRANTOR to convey two additional easement areas adjacent to Parcel C05P23-103. In addition, the Parties wish to revise or add Easement terms concerning improvements within the Subject Parcel, indemnification and notice.

4. Other than the terms herein, this Amendment shall not otherwise affect, alter, or change the Easement. The Parties specifically agree this Amendment only concerns the Subject Parcel and does not change the terms related to any other parcel covered by the Easement. As to any inconsistency existing between with the terms of this Amendment and the terms in the Easement, the Parties agree the terms of this Amendment shall control.

5. For the above stated reasons, the Parties agree to amend the Parcel C05P23-103 section of the Easement with the terms and conditions herein to apply to the Easement Area.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the Parties agree to the following terms, conditions, and reservations:

A. RECITALS

Each of the above Recitals is incorporated herein and is true and correct.

B. INSERT PARCEL C05P23-110 AND 111 LEGAL DESCRIPTIONS AND DEFINE PARCELS C05P23-103, 110 AND 111 COLLECTIVELY AS THE CONVEYED "EASEMENT AREA."

GRANTOR hereby conveys to DISTRICT the ability to exercise its rights pursuant to the Easement in, on, under and over land immediately adjacent to the existing Parcel C05P23-103 easement area referred to as Parcel 1(C05P23-110) and Parcel 2(C05P23- 111, defined in "**Exhibit B**" and depicted in "**Exhibit B-1**," each attached hereto and incorporated herein. The Parties further amend the legal description for Parcel C05P23-103 in the Easement by adding the following last sentence: PARCELS C05P23-103, 110 AND 111 shall collectively be referred to as the "easement area" subject to the following terms and conditions:

C. CHANGE TO SECTION 1

Section 1 of Parcel C05P23-103 in the Easement is hereby deleted in its entirety and replaced with the following:

1. No building, permanent structures, improvements, pipelines, landscaping

or additional earth fill (hereinafter individually referred to as an "improvement" or "installation", or collectively as "improvements" or "installations") shall be installed or constructed on or about the easement area until the plans for such installation or construction have first been approved in writing by the District's Chief Engineer or designee. District agrees that such plans shall be approved or disapproved within a reasonable time following receipt thereof, and that approval will not be withheld without good cause. Owner will hold District harmless from any loss or claims for damages resulting from the inadequacy of the design of any improvements built on said land.

District shall not be liable or financially responsible for, and Owner shall hold District harmless from, any loss or claim for damages resulting from the operation of any improvement installed, constructed or caused to be installed or constructed by Owner, and pay expenses incurred by District to make repairs or remediate the impact of any improvement installed, constructed or caused to be installed or constructed by Owner and for any hazardous or toxic substances or materials which become located in, on or about the easement area due to an improvement installed, constructed, or caused to be installed or constructed by Owner. Any improvements which Owner caused to be installed or constructed that may be disturbed by District's exercise of its easement rights shall be replaced, reconstructed and/or relocated at the Owner's sole cost and expense. In the event an improvement which Owner caused to be installed or constructed needs to be relocated due to District's facility construction or modification, the Owner will relocate the improvement outside of the easement area at the Owner's sole cost and expense. Prior to granting rights or permission to others for installation or construction of an improvement within the easement area, Owner shall have had the plans for such installation or construction approved in writing by the District's Chief Engineer or designee and had the proposed improvement holder acknowledge and agree to abide to the terms herein by including these terms in their respective deed, easement, lease or other agreement with Owner.

D. CHANGE TO SECTION 5

Section 5 of Parcel C05P23-103 in the Easement is hereby deleted in its entirety and replaced with the following:

5. In the event District finds it necessary in the future to enter on and disturb the surface or subsurface or maintain, repair, reconstruct, or enlarge the flood control facility, District's only responsibility shall be to restore any section of the flood control facility affected to the same condition that existed prior to District's activity which had been previously found acceptable to District and to backfill with compacted earth to the grade of the surrounding property following completion of District's activity. The responsibility for restoration of Owner's affected improvements within the disturbed area shall be that of Owner. District and Owner shall make reasonable efforts to minimize any damage and interference to the others improvements or facilities. Within the timeframe specified in Section 6 below, District shall provide Owner with a copy of District's plans and meet with Owner in good faith, if so requested, to ensure compliance with this Section.

E. CHANGE TO SECTION 7

Section 7 of Parcel C05P23-103 in the Easement is hereby deleted in its entirety and replaced with the following:

> 7. Owner, their successors or assigns, will indemnify and save District and the County of Orange, and their elected and appointed officials, officers, employees, agents, contractors and those special districts and agencies which District's Board of Supervisors acts as the governing Board, harmless from any and all penalties, liabilities, or losses resulting from claims, arbitration awards, settlements, damages, demands or court actions arising directly or indirectly out of any injury to persons or damage to property by reason of the acts or omissions, intentional or otherwise, of the Owner, their agents, employees, or independent contractors in the exercise of any of the rights herein reserved by Owner or in consequence thereof.

F. ADD SECTION 9

The following is hereby added to Parcel C05P23-103 in the Easement as Section 9:

> 9. All notices, documents, correspondence, and communications concerning the perpetual easement shall be addressed as set forth in this paragraph, or as the parties may hereafter designate by written notice, and shall be sent through the United States mail, duly registered or certified with postage prepaid. Any such mailing shall be deemed served or delivered twenty-four (24) hours after mailing. Each party may change the address for notices by giving the other party at least ten (10) calendar days prior written notice of the new address.
>
> Notwithstanding the above, District may also provide notices, documents, correspondence, or such other communications to Owner by personal delivery or regular mail and, so given, shall be deemed to have been given upon receipt if provided by personal delivery or forty-eight (48) hours after mailing if provided by regular mail.

To Owner:

TH Harbor Venture LLC
c/o Trumark Companies
450 Newport Center Drive
Suite 300
Newport Beach, CA 92660
Phone No. (949) 999-9816

To District:

Orange County Flood Control District
c/o OC Public Works
RE: W. Washington Storm Drain
(C05P23-103, 110, 111)
P.O. Box 4048
Santa Ana, CA 92702-4048
Phone No. (714) 647-3999

G. ACKNOWLEDGEMENT

The Parties acknowledge fill in excess of three feet will be placed in, on and over the Easement Area.

H. NO OTHER CHANGES; RATIFICATION

Except as expressly set forth in this Amendment, all other terms and conditions of the Easement shall remain unchanged and in full force and effect, and the Easement, as

amended, is hereby ratified by the Parties.

I. MISCELLANEOUS AMENDMENT PROVISIONS

1) Venue.

The Parties hereto agree that this Amendment has been negotiated and executed in the State of California and shall be governed by and construed under the laws of California. In the event of any legal action to enforce or interpret this Amendment, the sole and exclusive venue shall be 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 hereto specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

2) Attorney Fees.

In any action or proceeding brought to enforce or interpret any provision of this Amendment, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney's fees and costs.

3) Authority.

The Parties to this Amendment represent and warrant that this Amendment has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

4) Successors and Assigns.

This Amendment shall be binding on the successors and assigns of the Parties hereto.

Signature Pages Follow

GRANTOR

Date: APRIL 6, 2016

TH HARBOR VENTURE LLC,
a Delaware limited liability company

By: TH Harbor Investors LLC,
a Delaware limited liability company,
Its Managing Member

By: _____
Name: MICHAEL MAPLES
Title: MEMBER

DISTRICT'S signature on following page

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On APRIL 6, 20 16, before me, MICHELLE L. WEHR, a Notary Public in and for said State, personally appeared MICHAEL MAPLES, who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public in and for said County and State

(SEAL)

MICHELLE L. WEHR
Commission # 1971969
Notary Public - California
Orange County
My Comm. Expires Apr 9, 2016

DISTRICT
ORANGE COUNTY FLOOD CONTROL DISTRICT

By: _____
Shane Silsby, P.E., Director
OC Public Works
Orange County, California
Per Minute Order

Approved as to Form
Office of the County Counsel
Orange County, California

By: _____
Deputy

Date: 4-7-16

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20___, before me, _____, a Notary Public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public in and for said County and State

(SEAL)

Exhibit A

Final Order of Condemnation No. 211457 dated and recorded on May 6, 1975 in Book 11395, Page 267 of the Official Records of Orange County, California

Easement

(See attached)

ill
TD

R11395 PG 267

5211

FILED

RECORDING REQUESTED BY AND MAIL TO

EXEMPT C10

MAY 6 1975

WILLIAM E. ST JOHN, County Clerk
By _____ Deputy

ADRIAN KUYPER, COUNTY COUNSEL
and CHARLES B. SEVIER, DEPUTY
515 North Sycamore Street
P. O. Box 1379
Santa Ana, California 92702

Telephone: (714) 834-3312

Attorneys for Plaintiff

RECORDED IN OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA
Min. Past 2 PM MAY 6 1975
J. WYLIE CARLYLE, County Recorder

C05P23-1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

PARCEL #103

ORANGE COUNTY FLOOD CONTROL DISTRICT, etc., Plaintiff, vs. LESTER L. ARNOLD, et al., Defendants.	No. 211457 FINAL ORDER OF CONDEMNATION (Parcels C05P23-102, 102.1, 103, 103.1 and 104)

Plaintiff in the above-entitled action having paid into Court the sum of $1,702.00 for the benefit of Defendant Lester L. Arnold, and the sum of $3,454.00 for the benefit of Defendant Water Well Supply, a corporation, and that being the total just compensation awarded by the Court pursuant to Stipulation of the parties for the interests of said Defendants in, on, under and over those parcels of real property described in Plaintiff's Complaint as Parcels C05P23-102 and 103, taken by Plaintiff in perpetual easement, together with any and all improvements thereon pertaining to the realty, and for all interests and damages of every kind and nature suffered by the above-named Defendants by reason of the taking of the real property in perpetual easement for flood control and water conservation purposes.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the following described real property situated in the County of

/

/

CBS:sc

Orange, State of California, be condemned to Plaintiff in perpetual easement for the use and purposes set forth in Plaintiff's Complaint, to wit: the construction of West Washington Storm Drain:

PARCEL C05P23-102

A strip of land, 20.00 feet wide, in the northeast quarter of the northeast quarter of Section 9, Township 5 South, Range 10 West, in the Rancho Las Bolsas, city of Santa Ana, county of Orange, state of California, per map recorded in book 51, page 12 of Miscellaneous Maps in the office of the County Recorder of said county, said strip lying 10.00 feet on each side of the following described line:

Beginning at the southeast corner of Lot 12 of Tract No. 3387 per map recorded in book 127, pages 8 and 9 of said Miscellaneous Maps, said corner also being on the south line of said northeast quarter of the northeast quarter; thence N. 89° 23' 52" E., 198.53 feet along said south line to the southeast corner of the southwest quarter of said northeast quarter of the northeast quarter; thence N. 0° 29' 49" W., 10.00 feet along the east line of said southwest quarter to a point on a line that is parallel with and northerly 10.00 feet from said south line, said point being the true point of beginning; thence S. 89° 23' 52" W., 94.88 feet along said parallel line to the beginning of a tangent curve concave northeasterly and having a radius of 60.00 feet; thence northwesterly 59.33 feet along said curve through a central angle of 56° 39' 05"; thence tangent to said curve N. 33° 57' 03" W., 76.65 feet to a point on that certain curve in the southerly line of Morningside Avenue shown on the map of said tract as having a radius of 200.00 feet, said point being distant easterly 11.45 feet measured along said curve from the northeast corner of said Lot 12.

EXCEPT that portion thereof lying westerly of the following described line:

Beginning at the southeast corner of said southwest quarter; thence S. 89° 23' 52" W., 132.59 feet along said south line of said northeast quarter of the northeast quarter to the true point of beginning; thence N. 0° 29' 49" W. parallel with said east line to said southerly line of Morningside Avenue.

The side lines of said strip shall be prolonged or shortened, as necessary, so as to terminate on said east line.

The District shall construct an underground storm drain within the easement area above described. Construction shall be an underground concrete conduit sufficient to support an HS20-44 highway loading and three feet of earth fill.

Reserving unto the owner all rights compatible with and not prejudicial to the integrity of the

OFFICE OF COUNTY COUNSEL ORANGE COUNTY

PARCEL C05P23-102 - continued

District's facility. The rights reserved herein are subject to the following express limitations:

1. No building, permanent structures, or additional earth fill shall be constructed upon the easement area until the plans for such construction have first been approved in writing by the District's Chief Engineer. District agrees that such plans shall be approved or disapproved within a reasonable time following receipt thereof, and that approval will not be withheld without good cause. Owner will hold District harmless from any loss or claims for damages resulting from the inadequacy of the design of any building or other permanent structure built upon said land.

2. Any improvements constructed by Owner on the easement area shall be operated and maintained at no cost to District.

3. Owner will hold District harmless from claims for damages and cost of storm drain repair caused by Owner's overloading of said storm drain and shall reimburse District for the costs of said storm drain repair.

4. Owner will hold District harmless from any claims for damages from loss of business or damage to installations on said easement area resulting from the operation, maintenance, repair, reconstruction, replacement, or enlargement of the flood control facility to be constructed on said land, or from damage caused by flood or overflow conditions.

5. In the event District finds it necessary in the future to enter on and disturb the surface or subsurface of the above-described land in order to maintain, repair, reconstruct, or enlarge the flood control facility, District's only responsibility shall be to restore any section of the flood control facility affected to the same load specifications as originally constructed and to backfill with compacted earth to the grade of the surrounding property following completion of District's activity. The responsibility for restoration of Owner's affected improvements within the disturbed area shall be that of Owner.

6. Except in an emergency, found to exist by District's Chief Engineer, if the District intends to disturb the surface of the easement area, then District shall give Owner not less than 60 days prior written notice specifying the date of such entry, the duration thereof, and the nature of the work to be performed by District. District further agrees to use its best efforts to minimize any inconvenience to Owner or Owner's adjoining property and to minimize the period of time that the surface of the easement area will be disturbed.

7. Owner, their successors or assigns, will

PARCEL C05P23-102 - continued

save District, its officers, agents, and employees harmless from any or all penalties, liabilities, or losses resulting from claims or court actions arising directly or indirectly out of any injury to persons or damage to property by reason of the acts or omissions, intentional or otherwise, of the Owner, their agents, employees, or independent contractors employed by Owner in exercising any of the privileges herein reserved or in consequence thereof.

8. The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto, all of whom shall be jointly and severally liable hereunder.

PARCEL C05P23-103

The south 20.00 feet of the southeast quarter of the northeast quarter of the northeast quarter of Section 9, Township 5 South, Range 10 West, in the Rancho Las Bolsas, city of Santa Ana, county of Orange, state of California, per map recorded in book 51, page 12 of Miscellaneous Maps in the office of the County Recorder of said county.

EXCEPT therefrom the east 50.00 feet of said southeast quarter.

The District shall construct an underground storm drain within the easement area above described. Construction shall be an underground concrete conduit sufficient to support an HS20-44 highway loading and three feet of earth fill.

Reserving unto the owner all rights compatible with and not prejudicial to the integrity of the District's facility. The rights reserved herein are subject to the following express limitations:

1. No building, permanent structures, or additional earth fill shall be constructed upon the easement area until the plans for such construction have first been approved in writing by the District's Chief Engineer. District agrees that such plans shall be approved or disapproved within a reasonable time following receipt thereof, and that approval will not be withheld without good cause. Owner will hold District harmless from any loss or claims for damages resulting from the inadequacy of the design of any building or other permanent structure built upon said land.

2. Any improvements constructed by Owner on the easement area shall be operated and maintained at no cost to District.

3. Owner will hold District harmless from claims for damages and cost of storm drain repair

OFFICE OF COUNTY COUNSEL ORANGE COUNTY

PARCEL C05P23-103 - continued

caused by Owner's overloading of said storm drain and shall reimburse District for the costs of said storm drain repair.

4. Owner will hold District harmless from any claims for damages from loss of business or damage to installations on said easement area resulting from the operation, maintenance, repair, reconstruction, replacement, or enlargement of the flood control facility to be constructed on said land, or from damage caused by flood or overflow conditions.

5. In the event District finds it necessary in the future to enter on and disturb the surface or subsurface of the above-described land in order to maintain, repair, reconstruct, or enlarge the flood control facility, District's only responsibility shall be to restore any section of the flood control facility affected to the same load specifications as originally constructed and to backfill with compacted earth to the grade of the surrounding property following completion of District's activity. The responsibility for restoration of Owner's affected improvements within the disturbed area shall be that of Owner.

6. Except in an emergency, found to exist by District's Chief Engineer, if the District intends to disturb the surface of the easement area, then District shall give Owner not less than 60 days prior written notice specifying the date of such entry, the duration thereof, and the nature of the work to be performed by District. District further agrees to use its best efforts to minimize any inconvenience to Owner or Owner's adjoining property and to minimize the period of time that the surface of the easement area will be disturbed.

7. Owner, their successors or assigns, will save District, its officers, agents, and employees harmless from any or all penalties, liabilities, or losses resulting from claims or court actions arising directly or indirectly out of any injury to persons or damage to property by reason of the acts or omissions, intentional or otherwise, of the Owner, their agents, employees, or independent contractors employed by Owner in exercising any of the privileges herein reserved or in consequence thereof.

8. The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto, all of whom shall be jointly and severally liable hereunder.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a certified copy of this Order be recorded in the Office of the County Recorder of the County of Orange, State of California, and thereupon perpetual

easements for flood control and water conservation purposes in, on, under and over Parcels C05P23-102 and 103 shall be condemned to Plaintiff, Orange County Flood Control District, and all interests of Defendants Lester L. Arnold and Water Well Supply, a corporation, shall be subjected to perpetual easements in favor of Plaintiff.

DATED: MAY 6 1973

ROBERT A. BANYARD
Judge of the Superior Court

THIS INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE
ATTEST: MAY 6 1973
WILLIAM E. ST JOHN
County Clerk and Clerk of the Superior Court of the State of California in and for the County of Orange
By Frances L. Valasek Deputy

OFFICE OF COUNTY COUNSEL, ORANGE COUNTY

END OF RECORDED DOCUMENT

EXHIBIT "B"

LEGAL DESCRIPTION

Parcel 1: (C05P23-110)

In the City of Santa Ana, County of Orange, State of California, being a portion of the southeast quarter of the northeast quarter of the northeast quarter of Section 9, Township 5 South, Range 10 West, in the Rancho Las Bolsas per Miscellaneous Maps filed in Book 51, Page 12, described as follows:

Beginning at the intersection of the westerly line of said southeast quarter with a line being parallel with and 20.00 feet northerly of the southerly line of said southeast quarter; thence along said parallel line South 89°41'30" East 552.80 feet to the beginning of a non-tangent curve concave northeasterly having a radius of 15.00 feet, a radial line to the beginning of said curve bears South 28°17'38" West; thence leaving said parallel line northwesterly 8.51 feet along said curve through a central angle of 32°30'28"; thence non-tangent from said curve North 89°35'18" West 546.77 feet to said westerly line; thence South 00°24'51" West 6.85 feet to the point of **beginning**.

Containing 3,487 square feet, more or less.

Parcel 2: (C05P23-111)

In the City of Santa Ana, County of Orange, State of California, being a portion of the northeast quarter of the southeast quarter of the northeast quarter of Section 9, Township 5 South, Range 10 West, in the Rancho Las Bolsas per Miscellaneous Maps filed in Book 51, Page 12, described as follows:

Beginning at the northwest corner of said northeast quarter; thence along the westerly line of said northeast quarter South 00°24'51" West 5.15 feet; thence leaving said westerly line South

EXHIBIT "B"

LEGAL DESCRIPTION

89°35'18" East 600.64 feet to the westerly right of way line of Harbor Boulevard, said right of way line being parallel with and 60.00 feet westerly of the easterly line of said northeast quarter; thence along said westerly right of way line North 00°18'30" East 6.24 feet to said northerly line; thence leaving said westerly right of way line, along said northerly line North 89°41'30" West 600.63 feet to the point of **beginning**.

Containing 3,423 square feet, more or less.

As shown on Exhibit "B-1" attached hereto and by this reference made a part hereof.

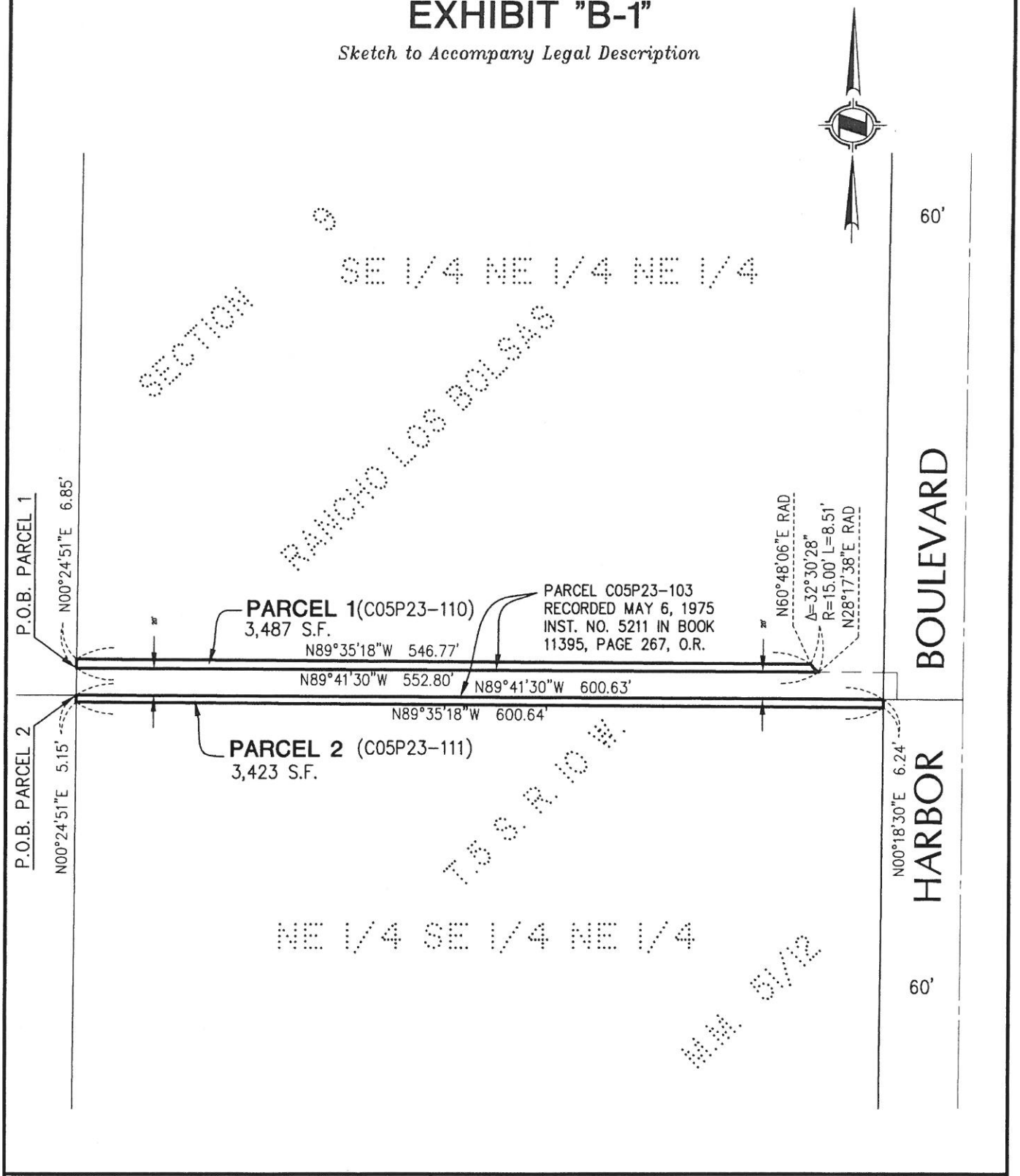
Jason R. Kinnie, L.S. No. 7090
Date: 04-05-16

LICENSED LAND SURVEYOR
JASON R. KINNIE
No. 7090
STATE OF CALIFORNIA

Revised: April 5, 2016
January 20, 2016
W.O. No. 3593-17774X
Page 2 of 2
H&A Legal No. 8663
By: J. Kinnie
Checked By: Chuck Tripi

EXHIBIT "B-1"

Sketch to Accompany Legal Description



HUNSAKER & ASSOCIATES IRVINE, INC. PLANNING ▪ ENGINEERING ▪ SURVEYING Three Hughes ▪ Irvine, CA 92618 ▪ PH: (949) 583-1010 ▪ FX: (949) 583-0759			EASEMENT FOR O.C.F.C.D. PURPOSES CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA		
DATE: 1-18-16	REV. DATE 04/05/16	DWG By: T. VO	CK'd By: R. WHEELER	SCALE: 1"= 100'	W.O. 3593-17774X
FILE: I:\17774\LD\8663\SHT01.dwg				H&A LEGAL No. 8663	SHEET 1 OF 1

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by this Amendment to the ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, is hereby accepted by order of the Board of Supervisors of the County of Orange, California, acting as the governing board of the ORANGE COUNTY FLOOD CONTROL DISTRICT, and the ORANGE COUNTY FLOOD CONTROL DISTRICT consents to recordation thereof by its duly authorized officer.

ORANGE COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____

Shane Silsby, P.E., Director
OC Public Works
Orange County, California
Per Minute Order

Approved as to Form
Office of the County Counsel
Orange County, California

By: _____
Deputy

Date: 4-7-16

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)? Easement
   a) Why is this property being considered for acquisition? The Orange County Flood Control District is to acquire additional easement rights for flood control purposes.
   b) How and who identified this property for a potential acquisition? Acquisition is to mitigate impact of additional earth placed upon District's existing West Washington Storm Drain segment to accommodate use of its surface as a private street for a new mixed development of the larger parcel.
   c) What factors are key in recommending this property for acquisition? Acquisition is necessary for flood control operations and maintenance of the impacted segment of West Washington Storm Drain.
   d) How does the proposed acquisition fit into the County's/District's strategic or general plan? Acquisition is consistent with plans and on-going use as a District flood control facility
   e) What are the short and long term anticipated uses of the property? Short and long term use is to continue operation and maintenance of West Washington Storm Drain within District easement rights.
   f) Are there any limitations on the use of the property for its intended purposes? See the Easement Amendment Deed

2. What analysis has been performed as to whether to acquire the proposed real property interest? N/A
   a) Have there been any internally or externally prepared reports regarding this property acquisition? N/A
   b) Who performed the analysis? N/A
   c) Provide details about the analysis and cost/benefit comparison. N/A

3. How was the acquisition price, or lease/license rent, determined? N/A, gratis conveyance to District
   a) Who performed the appraisal or market study and what certifications do they possess? N/A
   b) How does the price/rent compare with comparable properties? N/A
   c) Does the setting of the price/rent follow industry standards and best practices? N/A
   d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? Provide an estimate of the costs to the County/District if applicable. N/A

4. What additional post-acquisition remodeling or upgrade costs will be needed for the property to meet its intended use? N/A
   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. N/A
   c) What department will be responsible for the costs? N/A

5. Can the County terminate the purchase/easement, lease/license? N/A, unless quitclaim existing easement and flood control facility transferred to the City of Santa Ana
   a) What would be necessary to terminate the agreement, and when can it be terminated? N/A
   b) Are there penalties to terminate the purchase/easement, or lease/license? No

6. What department will be responsible for the acquisition payments? No

a) Are the acquisition costs budgeted in the department's budget? N/A
b) What fund number will the funds for the acquisition ultimately be drawn from? Flood 400 and then charged to Grantor
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 lease, 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 .

County Executive Office

S63C

Memorandum

May 5, 2016

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 for the May 10, 2016, Board Hearing Meeting.

Agency: Sheriff-Coroner
Subject: Goodwill Industries of Orange County Contract for Packaging
Districts: All Districts

Reason for supplemental: The Sheriff-Coroner requests this supplemental agenda item be placed on the May 10, 2016, Board meeting as the contract is effective May 18, 2016. The Agenda Staff Report and attachments were not finalized until after the filing deadline to the Clerk of the Board.

Concur:

Chairwoman Lisa Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item
Clerk's Use Only _____

SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 5/10/2016

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): Steve Kea (714) 647-4655
Greg Boston (714) 939-4848

SUBJECT: Goodwill Industries of Orange County Contract for Packaging

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
	Approved As to Form	Discussion - 3 Votes Board Majority
	Action	
CEO Signature	*County Counsel Signature*	

Budgeted: Yes

Current Year Cost: $20,372

Annual Cost:
FY 2016-17 $169,000
FY 2017-18 $148,628

Staffing Impact: N/A

# of Positions: N/A

Sole Source: No

Current Fiscal Year Revenue: N/A

Funding Source: Other: 100% (Jail Commissary)

County Audit in last 3 years No

Prior Board Action: 5/5/2015 #26, 4/29/2014 #8, 4/23/2013 #3, 3/06/2012 #4

RECOMMENDED ACTION(S)

Authorize the County Purchasing Agent or authorized Deputy to execute contract with Goodwill Industries of Orange County, California for packaging food and personal care items for jail commissary operations, for the period of May 18, 2016 through May 17, 2018, renewable for three one-year periods, in an amount not to exceed $338,000.

SUMMARY:

Approval of the contract with Goodwill Industries of Orange County, California will allow the Sheriff-Coroner to contract for packaging food and personal care items to be sold to jail inmates through Commissary Operations.

BACKGROUND INFORMATION:

Goodwill Industries of Orange County, CA (Goodwill) Packaging and Assembly unit provides valuable work experience and income to people with disabilities and other barriers. The County's contract with Goodwill provides for the packaging of food and personal care items to be sold to inmates at all Orange County jail facilities. Sheriff-Coroner (Sheriff) Commissary Operations purchases snack foods and personal care items in bulk, which must be specially re-packaged for sale to inmates. Profits on sales of commissary items generate revenue to the Inmate Welfare Fund (Fund 144), which funds the provision of educational classes for inmates.

The previous contract with Goodwill was approved by the Board of Supervisors (Board) on May 17, 2011 for one year, renewable for four years, in the amount of $130,000 per year. Amendment One to the contract, approved by the Board on March 6, 2012, renewed the contract for Year Two in the increased annual amount of $169,000 to account for an increase in the demand for packaged goods resulting from the increased population in the jails. Approved by the Board on April 23, 2013, Amendment Two renewed the contract for Year Three in the same annual amount of $169,000. Amendment Three was approved administratively on August 27, 2013 to correct a typographical error. Amendments Four and Five, approved by the Board on April 29, 2014 and May 5, 2015, renewed the agreement for an additional one-year term in the same annual amount of $169,000.

An Invitation for Bid was issued on April 8, 2016 for packaging food and personal care items for the Sheriff's jail commissary operations. By April 22, 2016, one bid was received from Goodwill in the amount of $169,000 per year. The bid was evaluated and found to be responsive. A Bid Recap Form is attached (Attachment C). This vendor has performed satisfactorily in the past.

The Sheriff requests Board approval of a new contract with Goodwill for the period of May 18, 2016 through May 17, 2018, in an amount not to exceed $338,000, renewable for three additional one year periods, as noted in the Recommended Action. This contract does not include subcontractors or pass through to other providers. See Attachment D for Contract Summary. This agreement is submitted for Board approval less than 30 days prior to its effective date as the bid process was not completed in time to file for previous Board meetings. The Sheriff requests this item be added to the May 10, 2016 Board meeting as the contract is effective May 18, 2016.

FINANCIAL IMPACT:

Appropriations and revenue for this agreement are included in the Sheriff-Coroner's FY 2015-16 Modified Budget for Budget Control 143, Jail Commissary and will be included in the Recommended Budget for FY 2016-17. Funding for this agreement is derived from proceeds resulting from commissary sales to inmates. This agreement contains language allowing the Sheriff-Coroner Department to terminate the contract or reduce the level of services without penalty with cause or without cause in the event that funding is reduced and/or not available to continue funding the agreement.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Contract MA-060-16011987
Attachment B - Redline Version of Previous Contract
Attachment C - Bid Recap
Attachment D - Contract Summary Form

Contract # MA-060-16011987 For
The Packaging of Food and Personal Care Items for Resale

This agreement, hereinafter referred to as "Contract" is made and entered into as of the date fully executed by and between, **Goodwill Industries of Orange County** with a place of business at 410 North Fairview Street, Santa Ana, Ca 92703-3412; hereinafter referred to as "Contractor," and the County of Orange, a political subdivision of the State of California, through its Sheriff-Coroner Department with a place of business at 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703, hereinafter referred to as "County," which may be referred individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, Contractor responded to County issued solicitation offering the complete Scope of Work as requested in Attachment A, and Contractor represents that its proposed goods and services shall meet or exceed County's requirements and specifications as set forth herein; and,

WHEREAS, County's Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for **The Packaging of Food and Personal Care Items for Resale.**

NOW, THEREFORE, the Parties mutually agree as follows:

General Terms and Conditions:

A. **Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be 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.

B. **Entire Contract**: This Contract, including Attachments A, B, C, and Exhibit 1 (Blank Child Support Enforcement Certification Requirements Form), which have been incorporated, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of equipment, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or his designee, hereinafter "Purchasing Agent".

C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.

E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County

reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.

F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance by the County and in accordance to Attachment C, Compensation and Pricing.

G. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnities as identified in paragraph "P" below, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any Software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "HH" below, it shall indemnify, defend and hold County and County Indemnities harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

I. **Assignment or Sub-contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by

County of its right to terminate the Contract shall relieve County of all further obligation.

L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or 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, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

M. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.

N. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.

O. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion, and coordination of all documentation and other goods/services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.

P. **INSURANCE PROVISIONS**

Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in excess of $25,000 ($5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of Contractor's current audited financial report.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com).** It is preferred, but not mandatory, that the insurer be licensed to do business in the State of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

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	$1,000,000 per claims made $1,000,000 aggregate
Sexual Misconduct	$1,000,000 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 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1) 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, employees and agents as Additional Insured's.
2) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

If Contractor's Professional Liability is a "Claims Made" policy, Contractor shall agree to maintain Professional Liability coverage for two (2) years following the completion of the Contract.

The Commercial General Liability policy shall contain a severability of interests' clause, also known as a "separation of insured's" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

Q. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials, and

equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "HH" below, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

R. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.

S. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to the assignment of the Contract to the new owners, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.

T. **Force Majeure:** Contractor shall not be deemed in breach for any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.

U. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

V. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "HH" below, Contractor agrees that it shall defend, indemnify and hold County and County Indemnities harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.

W. **Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

X. **Pricing:** The Contract price shall include full compensation for providing all required goods in accordance with required specifications, or services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.

Y. **Waiver of Jury Trial: Intentionally left blank.**

Z. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.

AA. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

BB. **Severability:** If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

CC. **Calendar Days:** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.

DD. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.

EE. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

FF. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

GG. **Employee Eligibility Verification**: Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

HH. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnities"), harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnities, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

II. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of contractor for the purpose of auditing or inspecting any aspect of performance under this contract. The inspection and/or audit will be confined to those matters connected with the performance of the contract including, but no limited to, the costs of administering the contract. The County will provide

reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this contract.

Should the contractor cease to exist as a legal entity, the contractor's records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's project manager.

Additional Terms and Conditions

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which County will procure and receive goods/services from Contractor as set forth in the Scope of Work, which is attached hereto as Attachment A and incorporated by this reference.

2. **Term of Contract:** This Contract shall commence upon execution of all necessary signatures, and shall be effective for two (2) years from that date, unless otherwise terminated by County. Contract may be renewed for up to three (3) additional one-year consecutive terms, upon mutual agreement of both Parties. Each renewal of this Contract may require approval by the County Board of Supervisors. The County does not have to give reason if it elects not to renew.

3. **Precedence:** The Contract documents will consist of this Contract including its Attachments, and Exhibits. In the event of a conflict between the Contract documents, the order of precedence shall be this Contract, then the Attachments and Exhibits.

4. **Fiscal Appropriations**: This Contract is subject to and contingent upon applicable budgetary appropriations being made by the County's Board of Supervisors for each year during the term of this Contract. If such appropriations are not forthcoming, the Contract will be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

5. **Conflict of Interest (Contractor):** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that result in a conflict with the best interest of County. This obligation shall apply to Contractor, Contractor's employees, agents, relatives, sub tier contractors and third parties associated with accomplishing the work hereunder.

   Contractor's efforts shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing, or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of County.

6. **Contractor Work Hours and Safety Standards**: Contractor shall ensure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and County safety and health regulations and laws.

7. **County and Contractor Project Manager:** County shall appoint a project manager to act as liaison between County and Contractor during the term of this Contract. County's project manager shall coordinate the activities of County staff assigned to work with Contractor.

   Contractor shall appoint a project manager to direct Contractor's efforts in fulfilling

Contractor's obligations under this Contract. Contractor's project manager shall be subject to approval by County and shall not be changed without the written consent of County's project manager. County's project manager shall have the right to require the removal and replacement of Contractor's project manager from providing services to County under this Contract. County's project manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within fourteen (14) calendar days after written notice by County's project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of Contractor's project manager from providing services to County under this Contract.

8. **Contractor Personnel:** In addition to the rights set forth in paragraph 7, County's project manager shall have the right to require the removal and replacement of any of Contractor's personnel from providing services to County under this Contract. County's project manager shall notify Contractor's project manager in writing of such action. Contractor shall accomplish the removal of the specified personnel within one (1) calendar day after written notice by County's project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of any of Contractor's personnel from providing services to County under this Contract.

9. **Orderly Termination**: After receipt of a termination notice from County, Contractor shall submit to County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by County upon written request of Contractor. Upon termination County agrees to pay Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each party will assist the other party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each party.

10. **Reprocurement Costs:** In the case of default by Contractor, County may procure the service from other sources and, if the cost is higher, Contractor will be held responsible to pay County the difference between the Contract cost and the price paid. County may make reasonable efforts to obtain the prevailing market price at the time such goods and services are rendered. This is in addition to any other remedies available under law.

11. **County of Orange Child Support Enforcement (Exhibit 1 – Blank County of Orange Child Support Enforcement Certification Requirements Form):** In order to comply with the child support enforcement requirements of County, within ten (10) days of notification of selection of award of Contract but prior to official award of Contract, the selected Contractor agrees to furnish the required Contractor data and certifications to the agency/department deputy purchasing agent.

    Failure of Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another contractor. In the event a Contract has been issued, failure of the Contractor to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within sixty (60) calendar days of notice from County shall constitute grounds for termination of the Contract.

12. **Authorization Warranty**: Contractor represents and warrants that the person executing this Contract on behalf of and for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.

13. **Notices**: Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

For Contractor:

Goodwill Industries of Orange County
410 N. Fairview Street
Santa Ana CA 92703
Attn: Kim Scanlon, Business Development Manager
Ph: 949-357-9402

For County:

County of Orange
Sheriff-Coroner Department/Purchasing Services Unit
320 N. Flower Street, 2nd Floor
Santa Ana, CA 92703
Attn: Monica Rodriguez, Buyer
Ph: 714-834-6318
Fx: 714-834-6697

14. **Data – Title to:** All materials, documents, data or information obtained from County data files or any County medium furnished to Contractor in the performance of this Contract will at all times remain the property of County. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of County. All materials, documents, data or information, including copies, must be returned to County at the end of this Contract.

15. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. Contractor agrees to supply services and/or commodities requested, as needed by County, at prices listed in the Contract, regardless of quantity requested.

16. **Contractor's Records:** Contractor shall keep an accurate record of time expended by Contractor in the performance of this Contract. Such record shall be available for periodic inspection by County at reasonable times. Such records will be retained for three (3) years after the expiration or termination of this Contract.

17. **Substitutions:** Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.

18. **Price Increase/Decrease:** No price increases will be permitted during the first period of the price agreement. All price decreases will automatically be extended to the County of Orange. The County requires bona fide proof of cost increases on Contracts prior to any price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. The County may enforce, adjust, negotiate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the contract. Adjustments increasing the Contractor's profit will not be allowed.

19. **Delivery Location – No Loading Dock:** Delivery locations may not have loading docks. The contractor is required to make all necessary arrangements for lift trucks or other means necessary to complete delivery. Inside delivery to secured facilities may be required. All deliveries will be off-loaded at the delivery site by driver/delivery personnel. County

employees and/or inmate workers shall not enter the delivery vehicle or unload the shipment to be received.

Signature Page

The Parties hereto have executed this Contract# MA-060-16011987 for **The Packaging of Food and Personal Care Items for Resale** on the dates shown opposite their respective signatures below.

Contractor*: Goodwill Industries of Orange County

By: _____ Title: President & CEO

Print Name: Frank Talarico, Jr. Date: 4/29/16

Contractor*: Goodwill Industries of Orange County

By: _____ Title: Chief Financial Officer

Print Name: Don J. Voska Date: 5/2/16

**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 _____
Deputy

ATTACHMENT A

SCOPE OF WORK

PURPOSE: Contractor shall provide for the County **Packaging of Food and Personal Care Items for Resale** to inmates within the County jails through Commissary Operations.

I. CONTRACTOR'S DUTIES:

1. Contractor shall provide volume discounts when applicable.
2. Contractor may not require minimum quantity and/or cost per order.
3. Dates of Orders: Orders may be placed during the term of the Contract even if delivery may not be made until after the term of the Contract. Order dates take precedence over delivery dates. The Contractor must clearly identify the order date on all invoices to the County.
4. Contractor shall ensure adequate stock of packing material for contracted items to accommodate projected bulk packaging stock received from Commissary Operations.
5. Contractor shall provide a packing list, bill of landing and/or invoicing which correctly identifies each product and quantities that are received. Invoice must be mailed within two (2) days of shipping merchandise or accompany the shipment.
6. Contractor shall supply only items specified on the Contract per packaging description on Attachment B. No substitutions shall be accepted.
7. Contractor shall pick-up bulk stock and return packaged items. Contractor shall ensure that packaging is completed and returned within 10 workings days of receiving bulk stock from Commissary Operations.
8. A seven (7) day grace period will be extended on billing for exchanges, corrections, and discrepancies concerning product and product quality/quantity.
9. Contractor shall notify the County Sheriff's Commissary Coordinator immediately in writing of any changes in the contract products.

II. COUNTY RESPONSIBILITIES:

1. County shall provide Contractor with bulk stock items for packaging.
2. County shall provide Contractor with barcodes for packaging, when applicable.
3. County shall provide Contractor with paper bags and all kit items for assembly.

III. DELIVERY INSTRUCTIONS/LOCATION:

1. DELIVERY INSTRUCTIONS:

Contractor shall pick-up and deliver items to be wrapped and or stapled Monday through Friday, between the hours of 7:00 a.m. to3:00 p.m (PST). No holiday or weekend deliveries will be accepted. County holidays are as follow:

New Year's Day	Martin Luther King's Birthday	Lincoln's Birthday
President's Day	Memorial Day	July 4th-Independence Day
Labor Day	Columbus Day	Veteran's Day
Thanksgiving & Friday	Christmas Day	------

2. PICK-UP/DELIVERY LOCATION:

County of Orange
Sheriff-Coroner Department
Anaheim Warehouse #918
1530 S. State College Blvd.
Anaheim, CA 92806

ATACHMENT B

Pricing

1. Contractor shall provide packaging for the following items for Commissary Operations as listed below.

ITEM NO	COMMISSARY ITEM #	ITEM	DESCRIPTION PACKAGE SIZE AND SERVICE PERFORMED	U/M	PRICING
001	B2030	Coffee-Mate	5 ct. Packaging Service (Stapling)	Each	$0.18
002	B2040	Cocoa, Instant	5 ct. Shrink Wrap	Each	$0.23
003	B2070	Sugar	10 ct. Shrink Wrap and Bar Code	Each	$0.23
004	B2080	Sweet N' Low	10 ct. Shrink Wrap and Bar Code	Each	$0.23
005	B2610	Coffee, Cappuccino	6 ct. Shrink Wrap and Bar Code	Each	$0.23
006	B2090	Salsa	4 ct. Shrink Wrap and Bar Code	Each	$0.22
007	B2210	Salt	10 ct. Shrink Wrap and Bar Code	Each	$0.26
008	B2220	Pepper	10 ct. Shrink Wrap and Bar Code	Each	$0.26
009	B3580	Envelope, #10	5 ct. Banded	Each	$0.20
010	B3100	Postcards	5 ct. Banded	Each	$0.20
011	3330	* Welfare Kits, Regular	Assembling, stapling & barcode labeling (8-items/bag)	Each	$0.35
012	3340	* Medical Kit	Assembling, stapling & barcode labeling (7-items/bag)	Each	$0.35
013	3350	* Restricted Kit	Assembling, stapling & barcode labeling (4-items/bag)	Each	$0.35
014	3360	* D.I. Kits	Assembling, stapling & barcode labeling (11-items/bag)	Each	$0.35
015	B2940	Coffee, Singles	5/Pack, Shrink Wrapped & Bar Code	Each	$0.22
016	B2960	Tapatio Sauce, Singles	4/Pack, Shrink Wrapped & Bar Code	Each	$0.22
017		Dressings & Condiments (Mayonnaise, etc.)	5 ct. Shrink Wrap and Bar Code	Each	$0.22
018		Bar Code Added	Adhesive UPC label added to package OR individual item	Each	$0.07
019		Personal Care Items (lotion, shampoo, etc.)	Bundling (5 each), shrink wrap & barcode labeling small foil packs of lotion, shampoo, etc. in packs of 5	Each	$0.22
020		Miscellaneous Packaging & Bundling	Bundle, shrink wrap or staple & add barcode to miscellaneous items (up to 10 each per pack)	Each	$0.23

***NOTE: Commissary Operations to provide all items and paper bags for the assembly of kits only.**

Initial Two Year Contract shall not exceed: $338, 000.00

ATTACHMENT C
Compensation and Pricing Provisions

This is a fixed fee Contract between County and Contractor for goods and services provided in Attachment A, Scope of Work. Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for services.

1. Pricing

Pricing set forth in Attachment B shall be firm for the first term of the Contract. All price decreases will automatically be extended to the County of Orange. County will accept decreases only. Pricing will be firm unless a reduction is available.

2. Payment Terms

Invoices are to be submitted in arrears, unless otherwise directed in this Contract, upon the satisfactory completion and acceptance of commodity/services in accordance with Paragraph F, Acceptance/Payment.

Contractor shall reference Contract number on invoice. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to County and verified and approved by the Sheriff-Coroner Department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with Contractor.

Billing shall cover services and/or goods not previously invoiced. Contractor shall reimburse County for any monies paid to Contractor for goods or services not provided or when goods or services do not meet the Contract requirements. Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

3. Invoicing Instructions:

a) Payments and/or invoices are to be sent to:

County of Orange
Sheriff-Coroner Department
Anaheim Warehouse #918
1530 S. State College Blvd.
Anaheim, CA 92806

b) Contractor will provide an invoice for services rendered, not more frequently than monthly. Each invoice will have a number and shall include the following information:

1. Contractor's name and address
2. Contractor's remittance address
3. County Contract number
4. Contractor's Tax I.D. number
5. Date of Order
6. Product description, quantity, prices
7. Sales tax, if applicable
8. Brief description of services

4. Year End and Final Invoices

At the end of each term of the Contract, and upon final termination, Contractor shall submit final invoices for services rendered or goods accepted by County under the Contract term (typically one year) within ninety (90) days. For example, if the term of a Contract ends, or the Contract expires without being renewed on June 30th, any and all invoices for services rendered or goods accepted by County during the preceding term of the Contract shall be submitted to County on or before September 28. In the event the ninetieth (90th) day falls on a weekend or County holiday, the deadline for submission of invoices shall be extended to the next business day. County holidays include New Year's Day, Martin Luther King Day, President Lincoln's Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

Contractor's failure to submit invoices pursuant to the deadlines established herein may be deemed a breach and shall be a basis for the County to refuse payment.

EXHIBIT 1

CHILD SUPPORT ENFORCEMENT REQUIREMENTS

In order to comply with child support enforcement requirements of the County the required Contractor data and certifications must be submitted within 10 days of notification of award.

Failure of a bidder to submit the data and/or certifications required above shall result in the bid being deemed non-responsive and the bidder may be disqualified from being considered for Contract award. Subsequent to issuance of the Contract, failure to comply with all federal and state reporting requirements for Child Support Enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

The certifications will be stated as follows:

"I certify that ***Goodwill Industries of Orange County*** *is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract* ***MA-060-16011987*** *with the County of Orange. I understand that failure to comply shall constitute a material breach of the Contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.*

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and will be held confidential by those agencies.

Failure of the Contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

County of Orange Child Support Enforcement

Contract Certification

INTRUCTIONS:
UPON NOTIFICATION OF SELECTION FOR CONTRACT AWARD/REQUEST FOR RENEWAL, **COMPLETE PART I AND PART II.**
RETURN COMPLETED FORM TO: SHERIFF-CORONER DEPARTMENT/PURCHASING SERVICES BUREAU, 320 N. FLOWER ST., SANTA ANA, CA 92703.

PART I

A. In case of an individual contractor, provide:
His/her name, date of birth, Social Security number, and residence address:

B. In the case of contractor doing business in a form other than as an individual, provide:
The name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity; OR

C. *If your firm is a non-profit entity please indicate: "N/A, Non-Profit Organization" **OR** If no single person owns an interest of 10 percent or more please state this fact below.

(Please note: Part II "Certification" must also be signed and returned)

1. **Name:** _____
   D.O.B. _____
   SSN No: N/A, Non-Profit Organization
   Residence Address: _____

2. **Name:** _____
   D.O.B. _____
   SSN No: _____
   Residence Address: _____

PART II

CERTIFICATION (PART I MUST ALSO BE COMPLETED)

I certify that Goodwill Industries of Orange County is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number: MA-060-16011987 with the County of Orange.
I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE _____

PRINTED NAME Frank Talarico, Jr.

TITLE President & CEO

Contract # MA-060-16011987~~1012291~~ For
The Packaging of Food and Personal Care Items for Resale

This agreement, ~~Contract for the Packaging of Food and Personal Items for Resale~~, hereinafter referred to as "Contract" is made and entered into as of the date fully executed by and between, **Goodwill Industries of Orange County,** with a place of business at 410 North, Fairview St, Santa Ana, CA 92703-3412; hereinafter referred to as "Contractor," and the County of Orange, a political subdivision of the State of California, through its Sheriff-Coroner Department with a place of business at 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703, hereinafter referred to as "County," which may be referred individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, Contractor responded to County issued solicitation offering the complete Scope of Work as requested in Attachment A, and Contractor represents that its proposed goods and services shall meet or exceed County's requirements and specifications as set forth herein; and,

WHEREAS, County's Board of Supervisors has authorized the Purchasing Agent or his designee to enter into this Contract for The Packaging of Food and Personal Care Items for Re-Sale~~:~~.

NOW, THEREFORE, the Parties mutually agree as follows:

General Terms and Conditions:

A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be 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.

B. **Entire Contract**: This Contract, including Attachments A, B, and C, and Exhibit 1 (Blank Child Support Enforcement Certification Requirements Form), ~~and Exhibit 2 (Blank EDD Reporting Requirement Compliance Form~~ which ~~are~~ have been incorporated ~~herein~~, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings ~~oral understanding, agreements, exceptions, alternatives, substitutes, revisions restrictions, promises, warranties or undertakings~~ other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unles authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of equipment, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or his designee, hereinafter "Purchasing Agent".

C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties~~.~~; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.

E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor's expense. Over shipments and under

shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.

F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance by the County and in accordance to Attachment C, Compensation and Pricing.

G. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnities as identified in paragraph "P" below, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.

H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any Software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "HH~~P~~" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.

I. **Assignment or Sub-contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.

L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or 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, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

M. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.

N. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees nor anyone working under Contractor shall be considered an agent or an employee of County.

Neither Contractor, its employees nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.

O. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion, and coordination of all documentation and other goods/services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.

~~P. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees"), harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.~~

P. **INSURANCE PROVISIONS**

Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, ~~and to deposit with the County Certificates of Insurance,~~ including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with. Contractor agreed to ~~and to~~ keep such insurance coverage, Certificates of Insurance, and endorsements ~~and the certificates therefore~~ on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herin for Contractor. Contractor shal not allow subcontractors to work if subcontractors have less than the level of coverage required by the County from Contractor under this Contract. It s the obligation of the Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any resonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of $25,000 ($5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of Contractor's current audited financial report.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this contract, the County may terminate this Contract.

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 with a minimum rating of A- (Secure A.M.

Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred , but tnot mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an ~~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 $1,000,000 aggregate ~~or per occurrence~~
Sexual Misconduct Liability	$1,000,000 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:

1) 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, employees, agents as Additional Insureds.

2) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

~~All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents 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, ~~agents and~~ employees and agents.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees and agents when acting within the scope of their appointment or employment.

~~All insurance policies required by this contract~~ Contractor shall notify ~~give the~~ County in writing within ~~of Orange~~ (30) days of any policy ~~notice in the event of~~ cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract. ~~This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.~~

If Contractor's Professional Liability ~~policy~~ is a "Celaims Mmade" policy, Contractor shall agree to maintain ~~professional~~ Professional Liability coverage for two (2) years following completion of this Contract.

The Commercial General Liability policy shall contain a severability of interests' clause, also known as a "separation of insured's" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Ceertificates of Iinsurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

Q. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "HHP" below~~above~~, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

R. Changes: Contractor shall make no changes in the work or perform any additional work without County's specific written approval.

S. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to the assignment of the Contract to the new owners, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.

TS. **Force Majeure:** Contractor shall not be deemed in breach for any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.

UT. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

VU. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "HHP" abovebelow, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.

WV. **Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

XW. **Pricing:** The Contract price shall include full compensation for providing all required goods in accordance with required specifications, or services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.

YX. **Waiver of Jury Trial:** Intentionally left blank. Each Party acknowledges that it is aware of and has had the opportunity to seek advise of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and /or any other claim of injury or damage.

Z. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.

AA. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

BB. **Severability:** If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

CC. **Calendar Days:** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.

DD. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and

expenses.

EE. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

FF. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

GG. **Employee Eligibility Verification**: Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statues and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

HH. Indemnification: Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnities"), harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgement is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnities, Contractor and County agree that liablity will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

II. Audits/Inspections: Contractor agrees to permit the County's Auditor-Controller or te Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accouts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papters or property of contractor for the purpose of auditing or inspecting any aspect of performace under this contract. The inspection and/or audit will be confined to those matters connected with the performance of the contract including, but not limited to, the costs of administering the contract. The County will provide resonable notice of such an audit or inspection.

The County reserves the right to audit and verify the contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this contract or by law. Contractor agrees to allow interviews of any employees or others who might resonably have information related to such records. Futher, contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this contract.

Should the contractor cease to exist as a legal entity, the contractor's records pertaining to this agreement shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the

County's project manager.

Additional Terms and Conditions

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which County will procure and receive goods/services from Contractor as set forth in the Scope of Work, which is attached hereto as Attachment A and incorporated by this reference.

2. **Term of Contract:** This Contract shall comence upon execution of all necessary signatures, and shall be effective for two~~one~~ (2~~1~~) years from that date, unless otherwise terminated by County. Contract may be renewed for up to three ~~four~~ (3~~4~~) additional one-year consecutive terms, upon mutual agreement of both Parties. Each renewal of this Contract may require approval by the County Board of Supervisors. The County does not have to give reason if elects not to renew.

~~2.~~3. **Precedence:** The Contract documents will consist of this Contract including its Attachments, and Exhibits. In the event of a conflict between the Contract documents, the order of precedence shall be this Contract, then the Attachments and Exhibits.

~~3.~~4. **Fiscal Appropriations**: This Contract is subject to and contingent upon applicable budgetary appropriations being made by the County's Board of Supervisors for each year during the term of this Contract. If such appropriations are not forthcoming, the Contract will be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

~~4.~~5. **Conflict of Interest (Contractor):** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that result in a conflict with the best interest of County. This obligation shall apply to Contractor, Contractor's employees, agents, relatives, sub tier contractors and third parties associated with accomplishing the work hereunder.

Contractor's efforts shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing, or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of County.

~~5.~~6. **Contractor Work Hours and Safety Standards**: Contractor shall ensure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and County safety and health regulations and laws.

~~6.~~7. **County and Contractor Project Manager:** County shall appoint a project manager to act as liaison between County and Contractor during the term of this Contract. County's project manager shall coordinate the activities of County staff assigned to work with Contractor.

Contractor shall appoint a project manager to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract. Contractor's project manager shall be subject to approval by County and shall not be changed without the written consent of County's project manager. County's project manager shall have the right to require the removal and replacement of Contractor's project manager from providing services to County under this Contract. County's project manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within fourteen (14) calendar days after written notice by County's project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of Contractor's project manager from providing services to County under this Contract.

~~7.~~8. **Contractor Personnel:** In addition to the rights set forth in paragraph 7, County's project manager shall have the right to require the removal and replacement of any of Contractor's personnel from providing services to County under this Contract. County's project manager shall notify Contractor's project manager in writing of such action. Contractor shall accomplish the removal of the specified personnel within one (1) calendar day after written notice by County's project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of any of Contractor's personnel from

providing services to County under this Contract.

9. **Orderly Termination**: After receipt of a ~~Upon~~ termination notice from County, Contractor shall submit to County a termination claim, if applicable. Such claim shal be submited promptly, but in no event later than sixty (60) days from the effective date of the termination, unless one or more extensions in writing are granted by County upon written request of Contractor. Upon termination County agrees to pay Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus previously paid compensation shal not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each p~~P~~arty shall promptly return to the other ~~P~~party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each ~~P~~party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.

10. **Reprocurement Costs:** In the case of default by Contractor, County may procure the service from other sources and, if the cost is higher, Contractor will be held responsible to pay County the difference between the Contract cost and the price paid. County may make reasonable efforts to obtain the prevailing market price at the time such goods and services are rendered. This is in addition to any other remedies available under law.

11. **County of Orange Child Support Enforcement (Exhibit 1 – Blank County of Orange Child Support Enforcement Certification Requirements Form):** In order to comply with the child support enforcement requirements of County, within ten (10) days of notification of selection of award of Contract but prior to official award of Contract, the selected Contractor agrees to furnish the required Contractor data and certifications to the agency/department deputy purchasing agent.

    Failure of Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another contractor. In the event a Contract has been issued, failure of the Contractor to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within sixty (60) calendar days of notice from County shall constitute grounds for termination of this Contract.

12. **Authorization Warranty**: Contractor represents and warrants that the person executing this Contract on behalf of and for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.

13. **Notices**: Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

For Contractor:

Goodwill Industries of OC, CA.
410 N. Fairview Street
Santa Ana, CA, 92703-3412
Attn: Kim Scanlon, Business Development Manager ~~Burela~~
~~Title: Manager~~
Phone: 949-357-9402 ~~714-547-6308~~

For County:

County of Orange
Sheriff-Coroner Department/Purchasing Services Bureau
320 N. Flower Street, 2nd Floor
Santa Ana, CA 92703
Attn: ~~Steve Halloran~~Monica Rodriguez, Buyer

Ph: 714-834-631835
Fx: 714-834-64116697

14. **Data – Title to**: All materials, documents, data or information obtained from County data files or any County medium furnished to Contractor in the performance of this Contract will at all times remain the property of County. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of County. All materials, documents, data or information, including copies, must be returned to County at the end of this Contract.

15. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. Contractor agrees to supply services and/or commodities requested, as needed by County, at prices listed in the Contract, regardless of quantity requested.

16. **Contractor's Records:** Contractor shall keep an acurate record of time expended by Contractor in the performance of this Contract. true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Contractor in accordance with generally accepted accounting principles. These Such records shall be stored in Orange County available for a periodic inspection by County at resonable times. Such records wil be retained for of three (3) years after th expiration or termination of this Contract. final payment is received from County. Storage of records in another county will require written approval from County's assigned Deputy Purchasing Agent.

17. Substitutions: Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.

Audits/Inspections: Contractor agrees to permit County's Auditor Controller or the Auditor Controller's authorized representative (including auditors from a private auditing firm hired by County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. County will provide reasonable notice of such an audit or inspection.

County reserves the right to audit and verify Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to County's project manager.

18. Price Increase/Decrease: No price increases will be permitted during the first period of the price agreement. All price decreases will automaticaly be extended to the Couny of Orange. The County requires bona fide proof of cost increases on Contracts prior to ay price adjustment. A minimum of 30-days advance notice in writing is required to secure such adjustment. No retroactive price adjustments will be considered. The County may enforce, adjust, negociate, or cancel escalating price Contracts or take any other action it deems appropriate, as it sees fit. The net dollar amount of profit will remain firm during the period of the contract. Adjustments increasng the Contractor's profit will not be allowed.

Disputes Contract: A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by Contractor's project manager and County's project manager, such matter shall be brought to the attention of the County's Purchasing Agent by way of the following process:

~~a. Contractor shall submit to the agency/department Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless County, on its own initiative, has already rendered such a final decision.~~

~~b. Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by a senior official indicating the that demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which Contractor believes County is liable.~~

~~B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract.~~

~~Any final decision of County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his desgnee. If County fails to render a decision within ninety (90) days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. County's final decision shall be conclusive and binding regarding the dispute unless Contractor commences action in a court of competent jurisdicition.~~

19. Delivery Location – No Loading Dock: Delivery locations may not have loading docks. The contractor is required to make all necessary arrangemnts for lift trucks or other means necessary to complete delivery. Inside delivery to secured facilities may be required. All deliveries will be off-loaded at the delivery site by driver/delivery personnel. County employees and/or inmate workers shal not enter the delivery vehicle or unload the shipment to be received.

Signature Page

The Parties hereto have executed this Contract #MA-060-16011987 for The Packaging of Food and Personal Care Items for Re-Sale on the dates shown opposite their respective signatures below.

Contractor*: Goodwill Industries of Orange County

By: _____ Title: _____

Print Name: _____ Date: _____

Contractor*: Goodwill Industries of Orange County

By: _____ Title: _____

Print Name: _____ Date: _____

**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.

~~*If a corporation, the document must be signed by two corporate officers. The first signature must be either the Chairman of the Board, President, or any Vice President. The second signature must be the secretary, an assistant secretary, the Chief Financial Officer, or any assistant treasurers. **In the alternative, a single corporate signature is acceptable when accompanied by a corporate document 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 _____
Deputy

ATTACHMENT A

SCOPE OF WORK

PURPOSE: Contractor shall provide for the County **Packaging of Food and Personal Care Items for Resale** that are sold to inmates within the County jails through Commissary Operations.

I. CONTRACTOR'S DUTIES:

~~SPECIAL INSTRUCTIONS:~~

~~1. Contractors that do not comply with the following instructions will be considered non-responsive.~~

~~2. Contractor shall provide samples of the Shrink Wrapping to the Sheriff's Commissary for review prior to issuing the contract.~~

~~3.~~1. Contractor shall provide volume discounts when applicable.

~~4.~~2. Contractor may not require minimum quantity and /or cost per order.

~~5.~~3. Dates of Orders: Orders may be placed during the term of the Contract even if delivery may not be made until after the term of the Contract. Order dates take precedence over delivery dates. The Contractor must clearly identify the order date on all invoices to the County.

~~6. All deliveries and invoicing shall be submitted to the following address:~~

~~County of Orange~~
~~Sheriff-Coroner Department~~
~~Anaheim Warehouse #918~~
~~1530 S. State College Blvd.~~
~~Anaheim, CA 92806~~
~~Attn: Linda Katz-Dye~~
~~Ph: (714) 939-4850~~

~~7. *Delivery Locations - No delivery dock* - Delivery locations does not have loading docks. The contractor is required to make all necessary arrangements for lift truck or other means necessary to unload shipment and complete delivery. All deliveries will be off-loaded at the delivery site by driver/delivery personnel. County employees and/or inmate workers shall NOT enter delivery vehicle or unload the shipment to be received. Inside delivery to secured facilities may be required.~~

~~8. Contractor shalll deliver and pick-up items to be wrapped and or stapled between the hours of 7:00am - 3:00pm **Monday thru Friday**. No holiday or weekend deliveries will be accepted. County holidays are:~~

~~New Year's Day~~ ~~Labor Day~~
~~Martin Luther King's Birthday~~ ~~Columbus Day~~

~~Lincoln's Birthday~~ ~~Veteran's Day~~
~~President's Day~~ ~~Thanksgiving & Friday~~
~~Memorial Day~~ ~~Christmas Day~~
~~July 4th~~

~~9.~~4. Contractor shall insure adequate stock of packing material for contracted items to accommodate projected bulk packaging stock received from Commissary Operations.

~~10.~~5. Contractor shall provide a packing list, bill of landing and /or invoicing which correctly identifies each product and quantities that are received. Invoice must be mailed within two (2) days of shipping merchandise or accompany the shipment.

~~11.~~6. Contractor shall supply only items specified on the ~~agreement~~Contract per packing description on Attachment B. No substitutions shall be accepted.

~~12.~~7. Contractor shall pick-up bulk stock and return packaged items. Contractor shall e~~i~~nsure that packaging shall be completed within 10 working days of receiving bulk stock from Commissary Operations.

~~13.~~8. A seven (7) day grace period will be extended on billing for exchanges, corrections, and discrepancies concerning product and product quality/quantity.

~~14.~~9. Contractor shall notify the County Sheriff's Commissary Coordinator immediately in writing of any changes in the contract products ~~which may cause a safety /security risk within the five (5) County jails~~.

II. COUNTY RESPONSIBILITIES:

1. County shall provide Contractor with bulk stock items for packaging.

2. County shall provide Contractor with barcodes for packaging, when applicable.

3. County shall provide Contractor with paper bags and all kit items for assembly.

III. DELIVERY INSTRUCTIONS/LOCATION:

1. DELIVERY INSTRUCTIONS:

Contractor shall pick-up and deliver items to be wrapped and or stapled Monday through Friday, between the hours of 7:00 a.m. to 3:00 p.m (PST). No holiday or weekend deliveries will be accepted. County holidays are as follow:

New Year's Day	Martin Luther King's Birthday	Lincoln's Birthday
President's Day	Memorial Day	July 4th-Independence Day
Labor Day	Columbus Day	Veteran's Day
Thanksgiving & Friday	Christmas Day	------

2. PICK-UP/DELIVERY LOCATION:

County of Orange
Sheriff-Coroner Department
Anaheim Warehouse #918
1530 S. State College Blvd.
Anaheim, CA 92806

ATTACHMENT B

Pricing

~~SUPPLIMENTAL FOR ITEM PACKAGING~~

1. Contractor shall provide packaging for the following items for ~~Products that are packed or wrapped for~~ Commissary ~~are~~ as listed below.

ITEM NO	COMMISSARY ITEM #	ITEM ~~DESCRIPTION~~	DESCRIPTION PACKAGE SIZE AND SERVICE PREFORMED	~~CASE SIZE~~ U/M	PRICING ~~PER PACK~~
001	B2030	Coffee-Mate	5 ct. Packaging service (~~s~~Stapling)	~~1000~~ Each	$0.18~~0800~~
002	B2040	Cocoa, Instant	5 ct. Shrink wrap	~~300~~ Each	$0.23~~1290~~
003	B2070	Sugar	10 ct. Shrink wrap and Bar Code	~~2000~~ Each	$0.23~~1290~~
004	B2080	Sweet N Low	10 ct. Shrink wrap and Bar Code	~~2500~~ Each	$0.23~~1270~~
005	B~~3~~2610	Coffee, Cappuccino	6 ct. Shrink wrap and Bar Code	~~216~~ Each	$0.23~~1270~~
006	B2090	Salsa	4 ct. Shrink wrap & Bar Code	~~400~~ Each	$0.22~~1160~~
007	B2210	Salt	10 ct. Shrink wrap and Bar Code	~~3000~~ Each	$0.26~~1310~~
008	B2220	Pepper	10 ct. Shrink wrap and Bar Code	~~3000~~ Each	$0.26~~1310~~
009	B3580	Envelope, #10	5 ct. banded	~~500~~ Each	$0.20~~0980~~
010	B3100	Postcards	5 ct. banded	~~50~~ Each	$0.20~~0980~~
011	3330	* Welfare Kits, Regular	Assembling, Stapling & Barcode Labeling (8-items/bag)	Each	$0.35~~1950~~
012	3340	* Medical Kit	Assembling, Stapling & Barcode Labeling (7-items/bag)	Each	$0.35~~1950~~
013	3350	* Restricted Kit	Assembling, stapling & barcode labeling (4-items/ bag)	Each	$0.35~~1950~~
014	3360	* D.I. Kits	Assembling, stapling & barcode labeling (11-items/bag)	Each	$0.35~~1950~~
015	B2940	Coffee, Singles	5/Pack, Shrink Wrapped & Bar Code	Each	$0.22~~1160~~
016	B2960	Tapatio Sauce, Singles	4/Pack, Shrink Wrapped & Bar Code	Each	$0.22~~1160~~
017		Dressings & Condiments, (Mayonnaise, etc.)	5 ct. Shrink wrap and Bar Code, 200	~~200~~ Each	$0.22~~1160~~
018		Bar Code Added	Adhesive UPC label added to package OR individual item	Each	0.07~~350~~
019		Personal Care Items (lotion, shampoo, etc)	Bundling (5 each), shrink wrap & barcode labeling small foil packs of lotion, shampoo, etc. in packs of 5	Each	$0.22~~1160~~
020		Miscellaneous Packaging & Bundling	Bundle, shrink wrap or staple & add barcode to miscellaneous items (up to 10 each per pack)	Each	$0.23~~1310~~

Initial Two Year Contract Shall Not Exceed: $ 338~~169~~,000.00

* **NOTE:** Commissary Operations to provides all items and paper bags for the assembly of ~~each pack~~ kits only.

~~**DELIVERY/SHIPPING LOCATION:**~~
~~County of Orange~~

~~Sheriff-Coroner Department/Commissary Ops Warehouse~~
~~1530 S. State College Blvd.~~
~~Anaheim, CA 92806~~
~~Attn: Linda Katz-Dye (714) 939-4850~~

ATTACHMENT C

Compensation and Pricing Provisions

This is a fixed fee Contract between County and Contractor for services provided in Attachment ~~B~~A, Scope of Work. Contractor agrees to accept the specified compensation as set forth in this Contract as full renumeration for services.

1. Pricing

Pricing set forth in Attachment B shall be firm for the first term of the Contract. All price decreases will automatically be extended to County. County will accept decreases only. Pricing will be firm unless a reduction is available.

2. Payment Terms

Invoices are to be submitted in arrears, unless otherwise directed in this Contract, upon the satisfactory completion and acceptance of commodity/services in accordance with Paragraph F, Acceptance/Payment.

Contractor shall reference Contract number on invoice. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to County and verified and approved by the Sheriff-Coroner Department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with Contractor.

Billing shall cover services and/or goods not previously invoiced. Contractor shall reimburse County for any monies paid to Contractor for goods or services not provided or when goods or services do not meet the Contract requirements. Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

3. Invoicing Instructions:

a) Payments and/or invoices are to be sent to:

County of Orange
Sheriff-Coroner Department
Anaheim Warehouse #918
1530 S. State College Blvd.
Anaheim, CA 92806
~~Attn: Linda Katz-Dye~~
~~Ph: (714) 939-4850~~

Contractor will provide an invoice for services rendered, not more frequently than monthly. Each invoice will have a number and shall include the following information:

1. Contractor's name and address
2. Contractor's remittance address
3. County Contract number
4. Contractor's Federal I.D. number
5. Date of Order
6. Product description, quantity, prices
7. Sales tax, if applicable
8. Brief description of services

4. Year End and Final Invoices

At the end of each term of the Contract, and upon final termination, Contractor shall submit final invoices for services rendered or goods accepted by County under the Contract term (typically one year) within ninety (90) days. For example, if the term of a Contract ends, or the Contract expires without being renewed on June 30th, any and all invoices for services rendered or goods accepted by County during the preceding term of the Contract shall be submitted to County on or before September 28. In the event the ninetieth (90th) day falls on a weekend or County holiday, the deadline for submission of invoices shall be extended to the next business day. County holidays include New Year's Day, Martin Luther King Day, President Lincoln's Birthday, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

Contractor's failure to submit invoices pursuant to the deadlines established herein may be deemed a breach and shall be a basis for the County to refuse payment.

EXHIBIT 1

CHILD SUPPORT ENFORCEMENT REQUIREMENTS

In order to comply with child support enforcement requirements of the County the required Contractor data and certifications must be submitted within 10 days of notification of award.

Failure of a bidder to submit the data and/or certifications required above shall result in the bid being deemed non-responsive and the bidder may be disqualified from being considered for Contract award. Subsequent to issuance of the Contract, failure to comply with all federal and state reporting requirements for Child Support Enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

The certifications will be stated as follows:

"I certify that **Goodwill Industries of Orange County** *is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract* ***MA-060-1***[6011987]~~1012291~~ *with the County of Orange. I understand that failure to comply shall constitute a material breach of the Contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.*

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and will be held confidential by those agencies.

Failure of the Contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

County of Orange Child Support Enforcement

Contract Certification

INTRUCTIONS:
UPON NOTIFICATION OF SELECTION FOR CONTRACT AWARD/REQUEST FOR RENEWAL, **COMPLETE PART I AND PART II.**
RETURN COMPLETED FORM TO: SHERIFF-CORONER DEPARTMENT/PURCHASING SERVICES BUREAU, 320 N. FLOWER ST., SANTA ANA, CA 92703.

PART I

A. In case of an individual contractor, provide:
His/her name, date of birth, Social Security number, and residence address:

B. In the case of contractor doing business in a form other than as an individual, provide:
The name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity; OR

C. *If your firm is a non-profit entity please indicate: "N/A, Non-Profit Organization" **OR** If no single person owns an interest of 10 percent or more please state this fact below.

(Please note: Part II "Certification" must also be signed and returned)

1. **Name:** _____
   D.O.B. _____
   SSN No: _____
   Residence Address: _____

2. **Name:** _____
   D.O.B. _____
   SSN No: _____
   Residence Address: _____

PART II

CERTIFICATION (PART I MUST ALSO BE COMPLETED)

I certify that **Goodwill Industries of Orange County** is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number: **MA-060-1601198711012291** with the County of Orange.
I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE _____

PRINTED NAME _____

TITLE _____

~~EXHIBIT 2~~

~~EDD INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS~~

~~Effective January 1, 2001 the County of Orange is required to file federal Form 1099 Misc for services received from a "service provider" to whom the COUNTY pays $600 or more or with whom the COUNTY enters into an AGREEMENT for $600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.~~

~~The term "service provider" is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as "an individual who is not an employee of the service recipient for California purposes and who received compensation or executes an AGREEMENT for services performed for that service recipient within or without the state." The term is further defined by the California Employment Development Department to refer specifically to independent CONTRACTORS. An independent CONTRACTOR is defined as "as an individual who is not an employee of the government entity for California purposes and who receives compensation or executes an AGREEMENT for services performed for that … government entity either in or outside of California."~~

~~The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.~~

~~Additional information on this reporting requirement can be found at the California Employment Development Department web site located at www.edd.ca.gov/txicr.htm.~~

~~To comply with the reporting requirements of, County procedures for contracting with independent CONTRACTORS mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:~~

- ~~First Name, Middle Initial, and Last Name~~
- ~~Social Security Number~~
- ~~Address~~
- ~~Start and expiration dates of contract~~
- ~~Amount of contract~~

~~PART I~~

~~CERTIFICATION~~ ~~(PART I must also be completed)~~

~~I certify that **Goodwill Industries of Orange County** is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number:**MA-060-11012291** with the County of Orange.~~
~~I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.~~

~~First Name~~ _____ ~~Middle Initial~~ _____ ~~Last Name~~ _____
~~SSN#~~ _____ ~~Date of Birth~~ _____
~~Address~~ _____
~~Contract No.~~ _____
~~Start Date~~ _____ ~~Expiration Date~~ _____
~~Dollar value of contract~~ _____

~~AUTHORIZED SIGNATURE~~ _____

~~PRINTED NAME~~ _____

~~TITLE~~ _____

Attachment C - Bid Recap

Services Recap Sheet

Bid Number:	060-C006135-MR	**File Number:**	C006135
Prepared By:	Monica Rodriguez	**Closing Date:**	4/22/2016
Subject:	Packaging of Food and Personal Care Items for Re-Sale	**PBO Date:**	4/25/2016

Bids Viewed Online:	20	**# Bids Rec'd:**	1	**# Disqual:**	0
Bids Faxed:	0	**# Bids Late:**	0	**# Und'd:**	0
Bids Email:	0	**# No Bids:**	0	**# No Resp:**	0
TOTAL	20			**TOTAL**	1

Award To:	Goodwill of Orange County
Comments:	Most Responsive, Responsible Bidder

					Goodwill of Orange County	
Item No	**Commissary Item**	**Item**	**Description Size and Service Performed** / **Package**	**U/M**	**Pricing**	**Comments**
001	B2030	Coffee-Mate	5 ct. Packaging Service (Stapling)	Each	$0.18	
002	B2040	Cocoa, Instant	5 ct. Shrink Wrap	Each	$0.23	
003	B2070	Sugar	10 ct. Shrink Wrap and Bar Code	Each	$0.23	
004	B2080	Sweet N' Low	10 ct. Shrink Wrap and Bar Code	Each	$0.23	
005	B2610	Cofee, Cappuccino	6 ct. Shrink Wrap and Bar Code	Each	$0.23	
006	B2090	Salsa	4 ct. Shrink Wrap and Bar Code	Each	$0.22	
007	B2210	Salt	10 ct. Shrink Wrap and Bar Code	Each	$0.26	
008	B2220	Pepper	10 ct. Shrink Wrap and Bar Code	Each	$0.26	
009	B3580	Envelope, #10	5 ct. Banded	Each	$0.20	
010	B3100	Postcards	5 ct. Banded	Each	$0.20	
011	3330	*Welfare Kits, Regular	Assembling, stapling & barcode labeling (8-items/bag)	Each	$0.35	
012	3340	*Medical Kit	Assembling, stapling & barcode labeling (7-items/bag)	Each	$0.35	
013	3350	*Restricted Kit	Assembling, stapling & barcode labeling (4-items/bag)	Each	$0.35	
014	3360	*D.I. Kits	Assembling, stapling & barcode labeling (11-items/bag)	Each	$0.35	
015	B2940	Coffee, Singles	5/Pack, Shrink Wrap & Bar Code	Each	$0.22	
016	B2960	Tapatio Sauce, Singles	4/Pack, Shrink Wrap & Bar Code	Each	$0.22	
017		Dressings & Condiments (Maronnaise, etc.)	5 ct. Shrink Wrap and Bar Code	Each	$0.22	
018		Bar Code Added	Adhesive UPC lavel added to package OR individual item	Each	$0.07	
019		Personal Care Items (lotion, shampoo, etc.)	Bundling (5 each), shrink wrap & barcode labeling small foil packs of lotion, shampoo, etc. in packs of 5	Each	$0.22	
020		Miscellaneous Packing & Bundling	Bundle, shrink wrap or staple & add barcode to miscellaneous items (up to 10 each per pack)	Each	$0.23	

Contract Summary

☒ **This contract does not include subcontractors or pass through to other providers.**

☐ **This contract includes the following subcontractors or pass through to other providers.**

Contract Operating Expenses

This contract is with Goodwill Industries of Orange County, California to package good and personal care items for jail commissary operations in an amount not to exceed $338,000 for a two year period.

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
May 10, 2016

MEMORANDUM

May 2, 2016

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session on Tuesday, May 10, 2016, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

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: *Felipe Jaques v. County of Orange,* Orange County Superior Case Number 30-2015-00776972.
>
> RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

LJP:nr

cc: Members of the Board of Supervisors
Frank Kim, CEO

2016 MAY -2 PM 1:15
CLERK OF THE BOARD
ORANGE COUNTY
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- 4
May 10, 2016

MEMORANDUM

May 2, 2016

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session on Tuesday, May 10, 2016, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

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: *Lisa Olvera v. County of Orange,* Workers' Compensation Appeals Board Case No. ADJ8592888.
>
> RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

Leon Page

LJP:nr

cc: Members of the Board of Supervisors
Frank Kim, CEO

2016 MAY -2 PM 1:15
CLERK OF THE BOARD
COUNTY OF ORANGE
ORANGE COUNTY
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-5
May 10, 2016

MEMORANDUM

May 4, 2016

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Supplemental Closed Session

2016 MAY -4

I am requesting a supplemental closed session to be held on Tuesday, May 10, 2016, for the Board to consider anticipated litigation pursuant to Government Code section 54956.9(d)(2).

Accordingly, please prepare the Agenda Item to read:

> "CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Pursuant to Government Code Section 54956.9(d)(2).
> 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

OFFICE OF THE COUNTY COUNSEL
COUNTY OF ORANGE
333 W. Santa Ana Blvd., 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. SC56
May 10, 2016

MEMORANDUM

May 6, 2016

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Closed Session

I am requesting a supplemental closed session on Tuesday, May 10, 2016, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

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: *Los Angeles Engineering, Inc., etc. v. County of Orange, et al.*, Orange County Superior Court Case No. 30-2014-00729572-CU-BC-CJC.
>
> RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

LDK:po

cc: Members of the Board of Supervisors
Frank Kim, CEO